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FOURTH EDITION, 1896.

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**JEWETT'S MANUAL**

**FOR**

**ELECTION OFFICERS AND VOTERS**

**IN THE**

**STATE OF NEW YORK,**

**CONTAINING THE**

**General Election Law, Town Meeting Law and Pro-**  
**visions Relating to School Meetings,**

**COMPLETE WITH AMENDMENTS TO DATE.**

***ALSO PROVISIONS OF THE PENAL CODE, GENERAL LAWS AND***  
***CONSTITUTION OF THE STATE OF NEW YORK RELATING***  
***TO ELECTIONS AND ELECTIVE OFFICERS,***

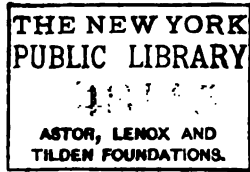
**WITH ANNOTATIONS, FORMS AND INSTRUCTIONS.**

---

By **F. G. JEWETT,**  
CLERK TO THE SECRETARY OF STATE.

---

1896.  
**MATTHEW BENDER,**  
LAW BOOKSELLER AND PUBLISHER,  
511-513 BROADWAY,  
ALBANY, N. Y.



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# TABLE OF CONTENTS.

## Election Law:

### ARTICLE I.

#### TIMES, PLACES, NOTICES, OFFICERS AND EXPENSES OF ELECTIONS.

	PAGE.
<b>Section</b> 1. Short title.....	2
2. Date of general election.....	2
3. Time of opening and closing polls .....	3
4. Filling of vacancies in elective offices.....	3
5. Notice of elections ... ..	6
6. Notice of submission of proposed constitutional amendments or other propositions or questions.. ..	7
7. Publication of concurrent resolutions, proposed constitu- tional amendments and other propositions.....	7
8. Creation, division and alteration of election districts.....	8
9. Maps and certificates of boundaries of election districts....	10
10. Designation of places for registry and voting. ....	11
11. Election officers; designation, number and qualifications... ..	14
12. Appointment and qualification of election officers in cities..	15
13. Election officers in towns.....	18
14. Organization of boards of inspectors; supplying vacancies and absences.....	22
15. Preservation of order by inspectors.....	23
16. Ballot boxes.....	24
17. Voting booths and guard-rails.....	25
18. Payment of election expenses.....	26
19. Delivery of election laws to clerks, boards and election officers.....	28
<b>Forms</b> for Article I.....	29

### ARTICLE II.

#### REGISTRATION OF ELECTORS.

<b>Section</b> 30. Meetings for registration.....	35
31. Adding and erasing names on register.....	36
32. Forms for registration.....	38
33. Method of registration.....	41
34. General provisions.....	44
35. Certificate and custody of register.....	48
36. Delivery of blank books for registration, certificates and instructions.....	51
<b>Forms</b> for Article II....	54

## ARTICLE III.

## PRIMARIES, CONVENTIONS AND NOMINATIONS.

PAGE.

Section 50.	Definitions of primary and convention.....	56
51.	Notice of primary ..	57
52.	Organization and conduct of primaries.....	57
53.	Qualifications of voters at primaries.....	59
54.	Duties of chairman of primary.....	59
55.	Watchers and canvass of votes at primaries.....	60
56.	Party nominations. ....	60
57.	Independent nominations.....	65
58.	Places of filing certificates of nominations..	67
59.	Times of filing certificates of nominations.....	68
60.	Certification of nominations by secretary of state.....	68
61.	Publication of nominations. ....	69
62.	Lists for town clerks and aldermen.....	70
63.	Posting town and village nominations....	71
64.	Declination of nomination .....	71
65.	Objections to certificates of nominations.....	72
66.	Filling vacancies in nominations. ....	72
Forms for Article III.....		76

## ARTICLE IV.

## OFFICIAL AND SAMPLE BALLOTS, INSTRUCTION CARDS AND STATIONERY.

Section 80.	Official ballots for elections.....	86
81.	Form of general ballot .....	86
82.	Form of ballot for questions submitted .....	90
83.	Sample ballots, instruction cards and stationery. ....	91
84.	Blank forms for election officers.....	92
85.	Number of official ballots .....	99
86.	Officers providing ballots and stationery.....	100
87.	Distribution of ballots and stationery.....	101
88.	Errors and omissions in ballots.....	102
89.	Unofficial ballots.....	103
Forms for Article IV.....		104

## ARTICLE V.

## CONDUCT OF ELECTIONS AND CANVASS OF VOTES.

Section 100.	Opening the polls.....	116
101.	Persons within the guard rail.....	118
102.	Watchers; challengers; electioneering.....	118
103.	General duties of election officers.....	120
104.	Delivery of ballots to electors.....	125
105.	Preparation of ballots by electors.....	128
106.	Manner of voting.....	131
107.	When official ballots may be voted.....	132
108.	Challenge and oaths.....	132

## TABLE OF CONTENTS.

V.

	PAGE.
<b>Section 109.</b> Time allowed employes to vote.....	135
110. Method of canvass .....	136
111. Original statement of canvass and certified copies.....	142
112. Proclamation of result .....	144
113. Delivery and filing of papers relating to the election .....	145
114. Judicial investigation of ballots.....	146
<b>Forms for Article V.</b> .....	149

### ARTICLE VI.

#### COUNTY AND STATE BOARD OF CANVASSERS.

<b>Section 130.</b> Organization of county board of canvassers .....	159
131. Production of original statements and copies thereof.....	160
132. Correction of clerical errors in election district statements. 161	161
133. Correction in state or county board of canvassers' statement.....	162
134. Proceeding of state board of canvassers upon corrected statement.....	165
135. Statement of canvass by county boards.....	166
136. Decisions of county boards as to persons elected .....	168
137. Transmission of statements of county boards to secretary of state.....	169
138. Organization of state board of canvassers.....	171
139. Canvass by state board.....	171
140. Certificates of election.....	172
141. Record in office of secretary of state of county officers elected.....	173

### ARTICLE VII.

#### ELECTORS OF PRESIDENT AND VICE-PRESIDENT, AND REPRESENTATIVES IN CONGRESS.

<b>Section 160.</b> Representatives in congress .....	174
161. Electors of president and vice-president.....	174
162. Meeting and organization of electoral college. ....	174
163. Secretary of state to furnish list of electors.....	175
164. Vote of the electors.....	175
165. Appointment of messenger.. ..	175
166. Other lists to be furnished .....	176
167. Compensation of electors. ....	176
168. Laws repealed.....	176
<b>Myers' automatic ballot machine law</b> .....	179
<b>Davis' automatic ballot machine law</b> .....	190
<b>Automatic ballot cabinets</b> ...	196
<b>State and county elective officers, provisions relating to</b> .....	198
<b>Political divisions of state, counties and towns :</b>	
election districts .....	223
senate districts .....	226

Political divisions of State, counties and towns — <i>Continued.</i>	PAGE.
assembly districts .....	230
congressional districts. ....	256
judicial districts.....	258
school commissioner districts.....	259
Voters, qualifications, etc., of.....	268
Citizenship.....	281
Naturalization.....	284
Town meetings.....	295
Town officers, qualification of .....	319
School elections ....	324
Appendix — additional citations .....	343

## Political Calendar, 1896.

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Election day, Tuesday, November 3.

Polls open, 6 A. M.; polls close, 5 P. M.

Registration days in cities of the first class (New York, Brooklyn and Buffalo):

First day, Friday, October 9, 7 A. M. to 10 P. M.

Second day, Saturday, October 10, 7 A. M. to 10 P. M.

Third day, Friday, October 16, 7 A. M. to 10 P. M.

Fourth day, Saturday, October 17, 7 A. M. to 10 P. M.

Registration days in cities and villages of five thousand or more inhabitants elsewhere than in cities of the first class, are held on the same days as in those cities from 8 A. M. to 9 P. M.

Registration in election districts other than in cities or villages of five thousand inhabitants or over are:

First day, Saturday, October 10, from 9 A. M. to 9 P. M.

Second day, Saturday, October 17, from 9 A. M. to 9 P. M.

Designation of polling places, September 1.

List of candidates for election officers to be filed August 1.

Appointment of election officers on or before October 1.

Publication of polling places and election district boundaries in cities October 8, 9, 10, 15, 16, 17, November 2 and 3.

Certificates of nominations to be filed with secretary of state:

Party certificates, September 24 to October 4.

Independent certificates, September 24 to October 9.

To be filed with county or city clerk, board of police or board of elections:

Party certificates, September 29 to October 9.

Independent certificates, September 29 to October 14.

Certification of nomination by secretary of state, October 20.

Publication of nominations, October 28 and November 2.

Declination of party nomination to be filed with secretary of state not later than October 9. Of independent nomination not later than October 14.



Declination of party nomination to be filed with county or city clerk, board of police or board of elections, not later than October 14. Of independent nomination not later than October 16.

Objection to nomination certificate must be made within three days after the filing thereof.

Vacancies in nominations caused by declination, death or disqualification must be filed on or before October 19.

When a candidate dies after the official ballots have been printed, the vacancy can be filled by filing the proper certificate, and the officer providing the official ballot must then provide official pasters bearing the name of the new nominee. The pasters are affixed to the ballots by the ballot clerks before delivery to the electors.

# THE ELECTION LAW OF 1896.

## CHAP. 909.

AN ACT in relation to the elections, constituting chapter six of the general laws.

BECAME a law May 27, 1896, with the approval of the Governor. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows :*

## CHAPTER VI OF THE GENERAL LAWS.

### The Election Law.

- ARTICLE I. Times, places, notices, officers and expenses of elections. (Sections 1 to 19.)
- II. Registration of electors. (Sections 30 to 36.)
- III. Primaries, conventions and nominations. (Sections 50 to 66.)
- IV. Official and sample ballots, instruction cards and stationery. (Sections 80 to 89.)
- V. The conduct of elections. (Sections 100 to 114.)
- VI. County and state boards of canvassers. (Sections 130 to 141.)
- VII. Electors of president and vice-president and representatives in congress. (Sections 160 to 167.)

### ARTICLE I.

#### Times, Places, Notices, Officers and Expenses of Elections.

- SECTION 1. Short title.
2. Date of general election.
3. Time of opening and closing polls.
4. Filling of vacancies in elective offices.
5. Notice of elections.
6. Notice of submission of proposed constitutional amendments or other propositions or questions.
7. Publication of concurrent resolutions, proposed constitutional amendments and other propositions.
8. Creation, division and alteration of election districts.
9. Maps and certificates of boundaries of election districts.
10. Designation of places for registry and voting.
11. Election officers ; designation, number and qualification.

- SECTION 12. Appointment and qualification of election officers in cities.
13. Election officers in towns.
  14. Organization of boards of inspectors; supplying vacancies and absences.
  15. Preservation of order by inspectors.
  16. Ballot boxes.
  17. Voting booths and guard-rails.
  18. Payment of election expenses.
  19. Delivery of election laws to clerks, boards and election officers.

SECTION 1. **Short title.**—This chapter shall be known as the election law.

§ 2. **Date of general election.**—A general election shall be held annually on the Tuesday next succeeding the first Monday in November.

#### MISCELLANEOUS PROVISIONS RELATING TO ELECTION DAY.

**Date of city elections.**—"All elections of city officers, including supervisors and judicial officers of inferior local courts, elected in any city or part of a city, and of county officers elected in the counties of New York and Kings, and in all counties whose boundaries are the same as those of a city, except to fill vacancies, shall be held on the Tuesday succeeding the first Monday in November in an odd-numbered year, and the term of every such officer shall expire at the end of an odd-numbered year. \* \* \* This section shall not apply to any city of the third class, or to elections of any judicial officer, except judges and justices of inferior local courts." (*Extract, § 3, art. 12, State Constitution.*)

**General election day a public holiday.**—"The term holiday includes the following days in each year: The first day of January, known as New Year's day; \* \* \* each general election day. \* \* \*" (*Extract from § 24, Statutory Construction Law.*)

**Sale of liquor on election days.**—"It shall not be lawful for any corporation, association, copartnership or person, whether having paid such tax or not, to sell, offer or expose for sale, or give away liquor:

\* \* \* \* \*

"c. On the day of a general or special election, or city election, or town meeting, or village election, within one-quarter of a mile of any voting place, while the poll for such election or town meeting shall be open." (*Extract from § 31, Liquor Tax Law.*)

**No parade or drill of national guard on election day.**—"No parade or drill of the national guard shall be ordered on any day during which an election shall be held, except in case of riot, invasion or insurrection, or of imminent danger thereof; and, if any officer shall order any such parade or drill, he shall forfeit to the people of this state the sum of one hundred dollars." (*Extract from § 142, Military Code.*)

**No tolls to be charged voters on election days.**—“No tolls shall be charged or collected at any gate from any person going to and from public worship, a funeral, school, town meeting or election, at which he is a voter to cast his vote. \* \* \*” (*Extract from § 130, Transportation Corporations Law.*)

**Shall be considered as Sunday** for such purposes as the presenting, protesting, etc., of bills of exchange, bank checks and promissory notes. (*Laws 1895, chap. 603.*)

**Shall be considered as Sunday** as to the transaction of business in public offices of the state and the counties. (*Laws 1892, chap. 681, § 41.*)

**Sheriffs' and county clerks' offices** not to be open on election day. (*Laws 1895, chaps. 718, 961.*)

**Sale of property** in foreclosure of mortgage by advertisement not to be held on election day. (*Code Civ. Pro. § 2393.*)

**Courts may sit** on election day, the Election Law having repealed Laws 1842, chap. 130, which prohibited such sitting.

**Issuance and service of legal process** not prohibited on election day. (*Didsbury v. Van Tassell, 56 Hun, 423.*)

**§ 3. Time of opening and closing polls.**—The polls of every general election, and, unless otherwise provided by law, of every other election shall open at six o'clock in the forenoon and shall close at five o'clock in the afternoon. There shall be no adjournment or intermission until the polls are closed.

**Local or special laws** as to the opening of elections cannot be made by the legislature. (*Const. art. 3, § 18, subd. 9.*)

**Amendments**, however, may be made to such local or special laws as were in existence before 1875. (*People ex rel. Lardner v. Carson, 10 Misc. 237, 246.*)

**Statute is directory, not imperative**, as to the hours of opening and closing the polls; election not necessarily void because of a violation of statutory regulations, though inspectors might be liable to indictment therefor. (*People v. Cook, 8 N. Y. 67, 91.*)

**Mandamus will not lie** extending the time of closing to allow lawful voters to exercise their right, though in line and ready to vote. Closing of the polls means closing of the polling of votes. (*Matter of 32d Election Dist., 18 N. Y. St. Repr. 785.*)

**§ 4. Filling vacancies in elective offices.**—A vacancy occurring before October fifteenth in any year of any office authorized to be filled at a general election, shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election. Upon the failure to elect to any office,

except that of governor or lieutenant-governor, at a general or special election, at which such office is authorized to be filled, or upon the death or disqualification of a person elected to office before the commencement of his official term; or upon the occurrence of a vacancy in any elective office which can not be filled by appointment for a period extending to or beyond the next general election at which a person may be elected thereto, the governor shall make proclamation of a special election to fill such office, specifying the district or county in which the election is to be held, and the day thereof, which shall be not less than twenty nor more than forty days from the date of the proclamation. A special election shall not be held to fill a vacancy in the office of a representative in congress unless such vacancy occurs on or before the first day of July of the last year of the term of office, or unless it occurs thereafter and a special session of congress is called to meet before the next general election, or be called after October fourteenth of such year; nor to fill a vacancy in the office of state senator, unless the vacancy occurs before the first day of April of the last year of the term of office; nor to fill a vacancy in the office of a member of assembly, unless occurring before the first day of April in any year, unless the vacancy occurs in either such office of senator or member of assembly after such first day of April and a special session of the legislature be called to meet between such first day of April and the next general election or be called after October fourteenth in such year. If a special election to fill an office shall not be held as required by law, the office shall be filled at the next general election.

#### **MISCELLANEOUS PROVISIONS RELATING TO FILLING VACANCIES.**

**Vacancies in elective offices.**—"The legislature shall provide for filling vacancies in office, and in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy." (§ 5, *art. 10, State Constitution.*)

**Vacancies filled by legislature.**—"When a vacancy occurs or exists, other than by removal, in the office of the secretary of state, comptroller, treasurer, attorney-general, or state engineer and surveyor, or a resigna-

tion of any such office to take effect at any future day shall have been made while the legislature is in session, the two houses thereof, by joint ballot, shall appoint a person to fill such actual or prospective vacancy." (§ 30, *Public Officers' Law*, chap. 681, L. 1892.)

**Filling other vacancies.**—"If a vacancy shall occur, otherwise than by expiration of term, with no provision of law for filling the same, if the office be elective, the governor shall appoint a person to execute the duties thereof until the vacancy shall be filled by an election. But if the term of such officer shall expire with the calendar year in which the appointment shall be made, or if the office be appointive, the appointee shall hold for the residue of the term." (§ 31 *Public Officers' Law*, chap. 681, L. 1892.)

**Vacancies in office of judges of court of appeals.**—"When a vacancy shall occur otherwise than by expiration of the term, in the office of chief or associate judge of the court of appeals, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the governor, by and with the advice and consent of the senate, if the senate shall be in session, or if not in session the governor may fill such vacancy by appointment. If any such appointment of chief judge shall be made from among the associate judges, a temporary appointment of associate judge shall be made in like manner; but in such case, the person appointed chief judge shall not be deemed to vacate his office of associate judge any longer than until the expiration of his appointment as chief judge. The powers and jurisdiction of the court shall not be suspended for want of appointment or election, when the number of judges is sufficient to constitute a quorum. All appointments under this section shall continue until and including the last day of December next after the election at which the vacancy shall be filled." (§ 8, art. 6, *State Constitution*.)

**Vacancy in office of justices of supreme court.**—"When a vacancy shall occur, otherwise than by expiration of term, in the office of justice of the supreme court, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until the vacancy shall be so filled the governor, by and with the advice and consent of the senate, if the senate shall be in session, or if not in session, the governor may fill such vacancy by appointment which shall continue until and including the last day of December next after the election at which the vacancy shall be filled." (*Part of § 4, art. 6, State Constitution*.)

**Notice of existence of vacancy.**—"When a judgment shall be rendered by any court convicting an officer of a felony, or of a crime involving a violation of his oath of office, or declaring the election or appointment of any officer to be void, or that the office of any officer has been forfeited or become vacant, the clerk of such court shall give notice thereof to the governor, stating the cause of such conviction or judgment.

"Whenever a public officer shall die before the expiration of his term of

office, or shall cease to be a resident of the political subdivision of the state or a municipal corporation in which he is required to be a resident as a condition of continuing in the office, the county clerk of the county in which such officer shall have resided immediately prior to such death or removal, shall immediately give notice of such death or removal to the governor. If the governor is not authorized to fill any vacancy of which he shall have notice, he shall forthwith give notice of the existence of such vacancy to the officer or officers, or to the body or board of officers authorized to fill the vacancy, or if such vacancy may be filled by an election, to the officers authorized to give notice of such election." (§ 26, *Public Officers' Law*, 1892.)

**Vacancies in office of county judge and surrogate.**—"Vacancies occurring in the office of county judge or surrogate shall be filled in the same manner as like vacancies occurring in the Supreme Court." (*Part of § 15, art. 6, State Constitution.*)

**§ 5. Notices of elections by secretary of state and county clerk.**—The secretary of state shall, at least three months before each general election, make and transmit to the county clerk of each county, the board of police commissioners of the city of New York and the board of elections of the city of Brooklyn, a notice under his hand and official seal, stating the day upon which such election shall be held, and stating each officer, except city, village and town officers, who may be lawfully voted for at such election by the electors of such county or any part thereof. If any such officer is to be elected to fill a vacancy, the notice shall so state. The secretary of state shall forthwith, upon the filing in his office of the governor's proclamation ordering a special election, make and transmit to each county clerk, the board of police commissioners of the city of New York and the board of elections of the city of Brooklyn, a like notice of the officers to be voted for at such special election in such county or any part thereof, and cause such proclamation to be published in the two newspapers published in such county having the largest circulation therein, at least once a week until such election shall be held. Each county clerk shall forthwith, upon the receipt of either such notice, file and record it in his office, and shall cause a copy of such notice to be published once in each week until the election therein specified in the newspapers designated to publish election notices. He shall also publish as a part of such notice, each city, village and town officer who may lawfully be

voted for at such election by the electors of such county or any part thereof.

**Designation of newspapers** to publish election notices made by board of supervisors of each county except Erie and Kings. (*Laws 1892, chap. 686, §§ 19, 22.*)

**When election notice omits an office to be filled**, such omission with the name of a candidate may be supplied by the voter. (*People ex rel. Goring v. President*, 144 N. Y. 616.)

**Designation of newspapers** to publish election notices reviewable by writ of certiorari. (*People ex rel. P. P. Co. v. Martin et al.*, 142 N. Y. 228.)

**§ 6. Notice of submission of proposed constitutional amendments or other propositions or questions.**— Every amendment to the constitution proposed by the legislature, unless otherwise provided by law, shall be submitted to the people for approval at the next general election, after action by the legislature in accordance with the constitution; and whenever any such proposed amendment to the constitution or other proposition, or question provided by law to be submitted to a popular vote, shall be submitted to the people for their approval, the secretary of state shall include in his notice to the county clerk, the board of police commissioners of the city of New York, and the board of elections of the city of Brooklyn, of the general election, a copy of such amendment, proposition or question, and if more than one such amendment, proposition or question is to be voted upon at such election, such amendment proposition or question, respectively, shall be separately and consecutively numbered. If such amendment, proposition or question is to be submitted at a special election, the secretary of state shall, at least twenty days before the election, make and transmit to each county clerk, the board of police commissioners of the city of New York, and the board of elections of the city of Brooklyn, a like notice. Each county clerk shall, forthwith upon the receipt of such notice, file and record it in his office, and shall cause a copy of such notice to be published once a week until the election therein specified, in the newspapers designated to publish election notices.

**§ 7. Publication of concurrent resolutions, proposed constitutional amendments and other propositions.**— The secre-



tary of state shall cause each concurrent resolution of the two houses of the legislature, agreeing to a proposed amendment to the constitution, which is referred to the legislature to be chosen at the next general election of senators, to be published once a week for three months next preceding such election, in two newspapers published in each county, representing the two political parties polling the highest number of votes at the then last preceding general election, and in one additional newspaper published in each county for every one hundred thousand people in such county, as shown by the then last preceding federal or state enumeration. Such additional newspapers shall be selected by the secretary of state with reference to making such publication in newspapers having the largest circulation in the county in which they are published. If such resolution does not state that such proposed amendment is so referred to such legislature, the secretary of state shall publish, in connection with the publication of such concurrent resolution, a statement that such amendment is referred to the legislature to be chosen at the next general election. The secretary of state shall cause such proposed amendment to the constitution or other proposition or question, which is by law to be submitted to the electors of the state at a general or special election, to be published for a like period before such election in newspapers selected in like manner, together with a brief statement of the law or proceedings authorizing such submission, the fact that such submission will be made and the reading form in which it is to be submitted. If such proposed amendment or other proposition or question is to be submitted at a special election, to be held less than three months from the time of appointing it, the first publication in each newspaper shall be made as soon as practicable after such appointment, and shall continue once in each week to the time of the election.

**Constitutional amendments** to be agreed to by two successive legislatures before submission to the people. (*Const. art. 14, § 1.*)

**§ 8. Creation, division and alteration of election districts.** — Every town or ward of a city not subdivided into election districts shall be an election district. The town board of every town containing more than four hundred electors, and

the common council of every city except New York and Brooklyn, in which there shall be a ward containing more than four hundred electors, shall, on or before the first day of July in each year, whenever necessary so to do, divide such town or ward respectively into election districts, each of which shall be compact in form, wholly within the town or ward, and shall contain respectively as near as may be, four hundred electors, but no such ward or town shall be again divided into election districts until, at some general election, the number of votes cast in one or more districts thereof shall exceed six hundred; and in such a case the redivision shall apply only to the town or ward in which such district is situated. If any part of a city shall be within a town, the town board shall divide into election districts only that part of the town which is outside of the city. No election district including any part of a city shall include any part of a town outside of a city. A town or a ward of a city containing less than four hundred electors may, at least thirty days before the election or appointment (where appointment is directed to be made by law) of inspectors of election of such town or ward, be divided into election districts by the board or other body charged with such duty when, in the judgment of such board or body, the convenience of the electors shall be promoted thereby. The creation, division or alteration of an election district outside of a city shall take effect immediately after the next town meeting, and at such next town meeting inspectors of election shall be elected for each election district as constituted by such creation, division or alteration. If the creation, division or alteration of an election district is rendered necessary by the creation or alteration of a town, or ward of a city, it shall take effect immediately, but a new town or ward shall not be created, and no new town or ward shall be subdivided into election districts between the first day of August of any year, and the day of the general election next thereafter. If inspectors are not elected or appointed for such district outside of a city before September the first next thereafter, the town board of the town shall appoint four inspectors of election for such district. On or before the first day of July in the year eighteen hundred and

ninety-seven the board of police commissioners of the city of New York and the board of elections of the city of Brooklyn, shall divide such cities respectively into election districts upon the basis of the registration of electors for the general election held in such cities in the year eighteen hundred and ninety-six. Each such election district so established shall contain as near as may be four hundred electors. Each election district shall be compact in form, and in the city of New York, wholly within one assembly district, and in the city of Brooklyn, wholly within one ward. No election district shall contain portions of two congressional or assembly districts. Such election districts so established shall not again be changed until at some general election for the office of governor, the number of registered voters therein shall exceed six hundred, except where changes are made necessary by a change in the boundaries of congressional or assembly districts or ward lines, provided, however, that when the number of registered voters in any election district shall, for two consecutive years, be less than two hundred and fifty, such district may be consolidated with contiguous election districts in the discretion of such boards respectively.

If a town shall include a city, or a portion of a city, only such election districts as are wholly outside of the city shall be deemed election districts of the town, except for the purpose of town meetings.

**Number of voters in election districts using Myers ballot machines.—**

“In any town, village, city or county where the Myers automatic ballot machine has been or may be adopted for use at elections, the voting precincts or districts therein may be arranged by the officers charged by law with such duty, so as to contain not more than six hundred voters each.” (§ 5, *chap. 764, Laws 1894, as amended by chap. 73, Laws of 1895.*)

**Number of voters in election districts using automatic ballot cabinets.—**“In any town or incorporated village wherein any such automatic ballot cabinet has been or may hereafter be adopted, the town board or trustees of such village may provide in such regulation that the voting precinct or district therein may be arranged so as to contain not more than eight hundred voters. \* \* \*” (§ 2, *chap. 765, Laws 1894, as amended by chap. 158, Laws 1895.*)

**§ 9. Maps and certificates of boundaries of election districts.—**When a ward of a city or an assembly district within a city shall be divided into two or more election districts, the

officers or board creating, dividing or altering such election districts, shall forthwith make a map or description of such division, defining it by known boundaries, and cause such map or description to be kept open for public inspection in the office of the city clerk, and cause copies thereof to be posted not less than ten days prior to the first day of registration in each year, in at least ten of the most public places in each election district so created, divided or altered, and shall, prior to every election, furnish copies of such map or description to the inspectors of election in each election district of such ward or assembly district. The officers creating, dividing or altering an election district in a town shall forthwith make a certificate or map thereof, exhibiting the districts so created, divided or altered, and their numbers respectively, and file the same in the county clerk's office, and a copy thereof in the town clerk's office, and cause copies of the same to be posted in at least five of the most public places in each election district of such town, and the county clerk shall, prior to every general election, furnish copies of such maps or certificates to the inspectors of election in each election district of such town, provided such election district is not coterminous with the town lines.

**§ 10. Designation of places for registry and voting, publication of same; and provision of furniture therefor.**—On the first Tuesday of September in each year, the town board of each town, and the common council of each city, except New York and Brooklyn, the board of police commissioners of the city of New York and the board of elections of the city of Brooklyn, shall designate the place in each election district in the city or town at which the meeting for the registration of electors and the election shall be held during the year. Each room so designated shall be of a reasonable size, sufficient to admit and comfortably accommodate at least ten electors at a time outside of the guard rails. No building, or part of a building, shall be so designated in any city if within thirty days before such designation, intoxicating liquors, ale or beer, shall have been sold in any part thereof. No room shall be so designated elsewhere than in a city, if within thirty days before such designation intoxicating liquors, ale

or beer, shall have been sold in such room, or in a room adjoining thereto, with a door or passageway between the two rooms. No intoxicating liquors, ale or beer shall be sold in such building in a city or such room or adjoining room elsewhere after such designation and before the general election next thereafter, or be allowed in any room in which an election is held during the day of the election or the canvass of the votes. Any person or persons violating the provisions of this section shall be deemed guilty of a misdemeanor. If any place so designated shall thereafter and before the close of the election be destroyed, or for any reason become unfit for use, or cannot for any reason be used for such purpose, the officers charged with the designation of a place for such election shall forthwith designate some other suitable place for holding such election. Not more than one polling place shall be in the same room, and not more than two polling places shall be in the same building. The officers authorized to designate such places in any town or city, shall provide for each polling place at such election, the necessary ballot and other boxes, guard rails, voting booths and supplies therein, and the other furniture of such polling place, necessary for the lawful conduct of each election thereat, shall preserve the same when not in use, and shall deliver all such ballot and other boxes for each polling place, with the keys thereof, to the inspectors of election of each election district at least one-half hour before the opening of the polls at each election. The officers authorized to designate the registration and polling places in any city shall cause to be published in two newspapers within such city a list of such places so designated, and the boundaries of each election district in which such registration and polling place is located except that in the city of Brooklyn such publication shall be made in the newspapers designated as corporation newspapers for said city. Such publication shall be made in the newspapers so selected upon each day of registration and the day of election, and on the day prior to each such days. One of such newspapers so selected shall be one which advocates the principles of the political party polling the highest number of votes in the state at the last preceding election for gov-

ernor, and the other newspaper so designated shall be one which advocates the principles of the political party polling the next highest number of votes for governor at said election.

#### **MISCELLANEOUS PROVISIONS FOR EQUIPMENT OF POLLING PLACES.**

**§ 3. Equipment of polling places with Myers ballot machines.**—“The town board of each town and the common council of each city shall provide for each election necessary polling places, and shall provide for each polling place, at each election, the necessary ballot machines in complete working order, with ballots, ballot captions and counter labels in their proper places therein, and with the dials of the labeled counters set at nine, guard rails, inspectors' table, and other furniture and equipment of such polling place necessary for the lawful conduct of the election thereat, put the inspectors of election in possession thereof and deliver to them the keys of the ballot machine therein, at least forty minutes before the opening of the polls for holding an election. The town board of each town and the common council of each city shall care for the ballot machine, furniture and equipment of each polling place when not in use in elections.” (§ 3, *Myers Ballot Law*, chap. 76 of L. 1894.)

**Equipment of polling places with automatic cabinets.**—For equipment of polling places with automatic ballot cabinets, see § 2, chap. 765, Laws 1894.

**Supplies for polling places.**—Ballots, cards of instructions, poll books, distance markers, tally sheets, inspector's and ballot clerk's returns and articles of stationery to be supplied by officers designated in Election Law. (See § 86, *Election Law*.)

**Cards and markers not to be taken down.**—The instruction cards and distance markers posted as provided by law shall not be taken down or defaced during such election. (See § 100, *Election Law*.)

**Local bills designating places of voting** not to be passed by legislature. (*Const. art. 3, § 18. subd. 9.*)

**But this prohibition does not apply** to amendments of statutes in force prior to adoption of constitutional provision. (*People ex rel. Lardner v. Carson*, 10 Misc. 237.)

**Liquor selling** within one-quarter of a mile of and while polls are open a misdemeanor. (*Laws 1896, chap. 112, §§ 31, 34.*)

#### **PENAL PROVISIONS RELATING TO FURNITURE AND SUPPLIES.**

**Removal, mutilation or destruction of election booths, supplies, etc.**—“Any person who:

“1. During an election or town meeting, willfully defaces or injures a voting booth or compartment, or willfully removes or destroys any of the

supplies or other conveniences placed in the voting booths or compartments in pursuance of law; or,

"2. Before the closing of the polls, willfully defaces or destroys any list of candidates to be voted for at such election or town meeting, posted in accordance with the election law; or,

"3. During an election or town meeting, willfully removes or defaces the cards for the instruction of voters, posted in accordance with the election law, is guilty of a misdemeanor." (§ 41c, *Penal Code*.)

**Removal, mutilation, etc., of public copy of registration.**— "Any person who shall alter, mutilate, destroy or remove from the place of registration the public copy of such registration, shall be guilty of a felony, and shall be punished upon conviction thereof by imprisonment in a state prison for not less than two nor more than five years, unless otherwise provided by law." (*Subd. 2, § 35, Election Law*.)

**§ 11. Election officers; designation, number and qualifications.**— There shall be in every election district of this state the following election officers, namely, four inspectors, two poll clerks and two ballot clerks, whose term of office shall be for one year from the date of their appointment or election, and who shall serve at every general or special election held within their districts during such term. No person shall be appointed or elected an inspector of election, poll clerk or ballot clerk who is not a qualified elector of the city, or of the election district of the town in which he is to serve, of good character, able to read and speak the English language understandingly, and to write it legibly, or who is a candidate for any office to be voted for by the electors of the district in which he is to serve; or, who has been convicted of a felony, or who holds any public office or place of trust, except notary public or commissioner of deeds, whether elected or appointed, or who is employed in any public office or by any public officer whose services are paid for out of the public moneys, or any person who is appointed or elected to, or accepts public office, or such appointment therein or by any public officer. Each class of such officers shall be equally divided between the two political parties, which, at the last preceding election for governor, polled the highest and next highest number of votes for such office in the state.

**Non-partisanship in election boards** not required at town meetings or village elections. (§ 6, *art. 2, State Constitution*.)

**§ 12. Appointment and qualifications of election officers in cities.**—Subdivision 1. On or before the first day of October in each year, the board of police commissioners of the city of New York, the board of elections of the city of Brooklyn, and the mayor of each other city, shall select and appoint the election officers for each election district in their respective cities; and shall severally have the power to fill all vacancies which may arise before the opening of the polls on election day. To insure the bipartisan character of such board or body of election officers required by the election law, each political party entitled to representation in such board or body shall have the right, not later than the first day of August in each year, to prepare and file with the board or officer empowered to make the appointment, as herein provided, a list of persons, members of such party, duly qualified to serve as election officers. In the cities of New York and Brooklyn such list shall be authenticated and filed by the chairman of the executive committee of the general city or county committee of the party; in other cities, by the chairman and secretary of the general, city or county committee of such party, if there be such a committee, or, if not, then by the corresponding officers (by whatever name known) of any committee performing the usual functions of a city or county committee; provided, however, that if in any city more than one such list be submitted in the name or on behalf of the same political party, only that list shall be accepted which is authenticated by the proper officer or officers of the faction or section of such party, which was recognized as regular by the last preceding state convention of such party; or, where no such convention has been held within the year, by the proper officer of the faction or section of said party which, at the time of the filing of said list, is recognized as regular by the state committee of such party, which was organized by or pursuant to the direction of the last preceding state convention of such party. All persons so proposed for appointment may be examined as to their qualifications by or under the direction of the board or officer charged with the duty of making the appointment; and if found duly qualified they shall be appointed to the respective



positions for which they were recommended. If any of them are found disqualified, notice in writing of that fact shall be promptly given to the person or persons by whom the list embracing their names was authenticated, and he or they shall have the right within ten days after the personal delivery or mailing to him or them of such notice, to file a supplemental list proposing the name of suitable members of his or their party for appointment in lieu of those thus rejected; provided, however, that the substitutes thus proposed shall also be subject to examination and rejection if found disqualified. If either party entitled to proposed election officers, as herein provided, shall fail to authenticate and file such a list on or before the first day of August, or if any of the persons named therein shall be found disqualified, or if no supplemental list be filed, as herein provided, or if one or more persons named in such supplemental list be found disqualified, then such board or officer shall proceed to select in such manner as may seem to them or him feasible from the members of the party or parties in default, or whose nominees have been found disqualified, and shall appoint suitable persons to act as election officers. In the cities of New York and Brooklyn, the two members of the respective boards charged with the duty of appointing election officers, who represent the same political party, shall have the exclusive right and be charged with the exclusive duty of selecting from the list submitted, or in lieu of persons named on such list who shall have been found disqualified, the members of such party who are to be appointed as election officers. Every person appointed as an election officer shall, within five days after notice of his appointment, take and subscribe the constitutional and statutory oaths of office, which shall be administered, if in the city of New York by the chief of the bureau of elections, or the chief clerk of said bureau; if in the city of Brooklyn, by any member of the board of elections of said city, or any clerk or clerks designated by said board for that purpose; and if in any other city, by the mayor thereof, or by any person or persons designated by him for that purpose; and all of said officers, and every clerk or person so designated by them or him for that purpose, shall be and is hereby authorized and empowered to administer

such oaths. Every person so sworn as an election officer shall receive a certificate of appointment and qualification, signed by the person who administered the oath, in such form as may be approved by the board or officer by which or whom he was appointed, and specifying the capacity and the election district in which he is to serve, and the date of the expiration of his term of office. Any election officer so appointed may be removed for cause, in which case such removal, unless made while such officer is actually on duty on the day of registration, revision of registration or election, and for improper conduct as an election officer, shall only be made after notice in writing to the officer to be removed, which notice shall set forth clearly and distinctly the reason for his removal. Any election officer who shall at any time be appointed to fill a vacancy, which fact shall be stated in the certificate of appointment, shall hold office only during the unexpired term of his predecessor, and provided that no election officer shall be transferred from one election district to another after he has entered upon the performance of his duties. The chairman of each board of inspectors of each election district shall, within twenty-four hours after any election, furnish to the mayor or board appointing such officers, if required so to do by such mayor or board, under his hand, a certificate stating the number of days of actual service of each member of such board, the names of the persons who served as poll clerks and ballot clerks on election day, and the number of days during which the store or building hired for registration and voting purposes was actually used for such purposes. Any person acting as such chairman, who shall willfully make a false certificate, shall be deemed guilty of a misdemeanor. Every person appointed as an election officer, failing to take and subscribe the oath of office as hereinbefore provided, or who shall willfully neglect or refuse to discharge the duties to which he was appointed, shall, in addition to the other penalties prescribed by law, be liable to a fine of one hundred dollars, to be sued for and recovered by the mayor or board making the appointment in a court of record, for the use and benefit of the treasury of such city. Any election officer who, being removed for cause, shall fail upon demand

to deliver over to his successor the register of electors, or any tally sheets, book, paper, memorandum or document relating to the election in his possession, so far as he has made it, shall be liable to a like penalty to be recovered in a like manner for the benefit of such city. All persons appointed and serving as election officers in cities of the first class shall be exempt from jury duty for one year from the date of the general election at which they serve.

[For Form for Oath, see Form No. 11, page 32.]

**Only the two dominant political parties** must be taken into consideration in choosing election boards, without regard to subordinate factions. (*People ex rel. Van Wyck v. Wheeler*, 18 Hun, 540.)

**Failure to appoint inspectors** within the time prescribed by law will not render subsequent appointments invalid in the absence of any statutory provision to that effect. (*People ex rel. McMackin v. Board of Police*, 46 Hun, 296.)

**Election not vitiated** if inspectors or clerks fail to take oath, though such failure might be punished by indictment. (*People v. Cook*, 8 N. Y. 84.)

§ 13. **Election officers in towns.**—Inspectors of election in towns shall be elected and appointed as provided in section nineteen of the town law. At the first meeting of the inspectors of election in every district in which the law provided for the election of inspectors, the inspectors elected shall appoint one of the poll clerks and one of the ballot clerks, and the inspectors appointed shall appoint the other poll clerk and ballot clerk. Such appointments shall be in writing, signed by the inspectors making the appointments respectively, and shall be filed by them with the town clerk of the town in which such election district is situated. The poll clerks and ballot clerks so appointed shall hold their office during the term of office of the inspectors appointing them, except as hereafter provided. The persons so appointed as poll clerks and ballot clerks shall be voters in the district in which they are appointed to serve, and shall possess the qualifications required of such officers by section eleven of this act. If at any time of any election at which poll clerks and ballot clerks are required to be present at the polling place in any election district, the office of a poll clerk or of a ballot clerk of such district shall be vacant, or a poll clerk or ballot clerk shall be absent, the inspectors of election in such district shall forth-

with appoint a person to fill such vacancy. Such person so appointed shall, before he acts as such poll clerk or ballot clerk, take the constitutional and statutory oaths of office.

[For Forms for Appointment and Oaths, see Forms Nos. 7 and 11, pages 30, 32.]

#### **MISCELLANEOUS PROVISIONS RELATING TO ELECTION OFFICERS.**

**Qualifications for holding office.**—“No person shall be capable of holding a civil office who shall not, at the time he shall be chosen thereto, be of full age, a citizen of the United States, a resident of the state, and if it be a local office, a resident of the political subdivision or municipal corporation of the state for which he shall be chosen, or within which the electors electing him reside, or within which his official functions are required to be exercised.” (§ 3, *Public Officers' Law*, chap. 681, *Laws* 1892.)

**Bi-partisan election officers.**—“All laws creating, regulating or affecting boards of officers charged with the duty of registering voters, or of distributing ballots at the polls to voters, or of receiving, recording or counting votes at elections, shall secure equal representation of the two political parties which, at the general election next preceding that for which such boards or officers are to serve, cast the highest and the next highest number of votes. All such boards and officers shall be appointed or elected in such manner, and upon the nomination of such representatives of said parties respectively, as the legislature may direct. Existing laws on this subject shall continue until the legislature shall otherwise provide. This section shall not apply to town meetings, or to village elections.” (§ 6, *art. 2, Constitution*.)

**Eligibility of inspectors in towns.**—“Every elector of the town shall be eligible to any town office, except inspectors of election shall also be able to read or\* write. \* \* \* ” (*Extract from Town Law*, § 50, chap. 569, *Laws* of 1890.)

**Election of inspectors in towns.**—“There shall be elected at the annual town meeting in each town, by ballot, \* \* \* and two inspectors of election for each election district in the town \* \* \* All such officers, except justice of the peace, shall hold their respective offices until others are elected in their place and have qualified.” (*Extract from Town Law*, § 12, chap. 569, *Laws* 1890, as amended by chap. 344, *Laws* 1893.)

**Appointment of additional inspectors in towns.**—“The presiding officer of each annual town meeting shall, immediately after the votes are canvassed, appoint by writing, two additional inspectors of election for each election district, to be associated with the two inspectors who shall have been elected, and which inspectors, so to be appointed, shall be those two persons in each election district who shall have received the highest

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\* So in the original.

number of votes next to the two persons who shall have been elected inspectors, and which inspectors, so to be appointed, shall belong to and be of the same political faith and opinion on state and national issues as one or the other of the two political parties which, at the last preceding general election for state officers, shall have cast the greatest and next to the greatest number of votes in said town, but they shall not belong to the same political party nor be of the same political faith and opinion on state and national issues as the inspectors who shall have been elected. If the two inspectors elected belong to different political parties, the inspectors appointed shall be the two candidates for inspectors not elected and receiving the highest and next to the highest number of votes respectively, and belonging to different political parties. No ballot shall be counted upon which more than two names for inspector for any one election district shall appear. The various election inspectors elected, or elected and appointed, for towns, under the provision of existing laws, shall continue to serve as such inspectors until January first, eighteen hundred and ninety-five. On or before the second Tuesday in September next the several election inspectors in the various towns, appointed under the provisions of existing laws, shall each appoint one additional election inspector, who shall serve with the other three election inspectors during their term of office; such appointment shall be made in writing and filed in the office of the town clerk. Such additional inspector shall belong to and be of the same political faith on state and national issues as the political party which at the last preceding town meeting shall have cast next to the highest number of votes, and when possible shall be one of the persons who, at the said town meeting, received next to the highest number of votes for election inspector. The additional inspector so appointed shall be subject to the provisions of existing laws, and of this act." (§ 19, *Town Law, thus amended by chap. 348, Laws 1894.*)

[For Form for Appointments, see Form No. 1, page 29.]

**Term of office of inspectors in towns.**—"Inspectors of election and constables, when elected, shall hold their respective offices for one year, \* \* \* But whenever there is or shall be a change in the time of holding town meetings in any town, persons elected to such offices at the next annual town meeting after such change shall take effect, shall enter upon the discharge of their duties at the expiration of the term of their predecessors, and serve until the next annual town meeting thereafter or until their successors are elected and have qualified." (*Extract from Town Law, § 13, chap. 569, Laws 1890, as amended by chap. 344, Laws 1893.*)

**Oath of office of inspectors in towns.**—"Every person elected or appointed to any town office, except justice of the peace, shall before he enters on the duties of his office, and within ten days after he shall be notified of his election or appointment, take and subscribe before some officer authorized by law to administer oaths in his county, the constitutional oath of office, and such other oath as may be required by law, which shall be administered and certified by the officer taking the same without

reward, and shall within eight days be filed in the office of the town clerk, which shall be deemed an acceptance of the office ; and a neglect or omission to take and file such oath, or a neglect to execute and file, within the time required by law, any official bond or undertaking, shall be deemed a refusal to serve, and the office may be filled as in case of vacancy." (§ 51, *Town Law, chap. 569, Laws 1890.*)

[For Forms for Oath, see Forms Nos. 10 and 11, pages 31, 32.]

**Filling of vacancies other than at meetings of inspectors by town board.**—"When a vacancy shall occur or exist in any town office, the town board or a majority of them may, by an instrument under their hands and seals, appoint a suitable person to fill the vacancy, and the person appointed, except justices of the peace, shall hold the office until the next annual town meeting. \* \* \* The board making the appointment shall cause the same to be forthwith filed in the office of the town clerk, who shall forthwith give notice to the person appointed. \* \* \*" (§ 65, *Town Law, chap. 569, Laws 1890.*)

[For Form for Appointments, see Form No. 2, page 29.]

**Accounts of inspectors in towns, how made out.**—"No account shall be audited by any board of town auditors or supervisors \* \* \* for any services or disbursements unless such account shall be made out in items and accompanied with an affidavit attached thereto, and to be filed with such account, made by the person presenting or claiming the same, that the items of such account are correct and that the disbursements and services charged therein have been in fact made or rendered or are necessary to be made or rendered at that session of the board, and stating that no part thereof has been paid or satisfied ; and the chairman of the board \* \* \* may administer any oath required under this section." (*Extract from § 167, Town Law, chap. 569, Laws 1890.*)

[For Form for Bill for Compensation, see Form No. 14, page 33.]

**Election officers exempt from civil service regulations.**—"The election officers now in office, and the inspectors of election and poll clerks shall be exempt from examination in accordance with the act hereby amended, or the amendments thereof, and it shall be the duty of the commissioners and mayors of cities so to provide in regulations made under this act." (§ 8, *chap. 357, Laws 1884.*)

**No ballot clerks where Myers ballots are adopted.**—No ballot clerks shall be elected or appointed in any town or city that shall have adopted the use of the ballot machine. (§ 19, *chap. 764, Laws 1894.*)

**Election not vitiated** if inspectors or clerks fail to take oath, though such failure might be punished by indictment. (*People v. Cook*, 8 N. Y. 84.)

#### **PENAL PROVISIONS RELATING TO ELECTION OFFICERS.**

**Misdemeanors in relation to elections.**—"Any person who :

"1. Acts as an inspector of election, poll clerk or ballot clerk, without being able to read and write the English language, or without being otherwise qualified to hold such office ; or,

"2. Being an inspector of election, knowingly and willfully permits or suffers any person to vote who is not entitled to vote thereat is guilty of a misdemeanor." (*Part § 41k, Penal Code.*)

**Misconduct of election officers and watchers.**—"Any election officer or watcher who:

"1. Reveals to another person the name of any candidate for whom a voter has voted; or,

"2. Communicates to another person his opinion, belief or impression as to how or for whom a voter has voted; or,

"3. Places a mark upon a ballot, or does any other act by which one ballot can be distinguished from another, or can be identified; or,

"4. Before the closing of the polls, unfolds a ballot which a voter has prepared for voting, is punishable by imprisonment for not less than six months nor more than one year." (*§ 41i, Penal Code, as amended in 1894.*)

**Violation of election law by public officer.**—"A public officer who omits, refuses or neglects to perform any act required of him by the election law, or refuses to permit the doing of any act authorized thereby, is, if not otherwise provided by law, punishable by imprisonment for not more than three years, or by a fine of not more than three thousand dollars, or both." (*§ 41j, Penal Code.*)

**Acting in a public office without having qualified.**—"A person who executes any of the functions of a public office without having taken and duly filed the required oath of office, or without having executed and duly filed the required security, is guilty of a misdemeanor as prescribed by law." (*§ 42 Penal Code.*)

**§ 14. Organization of boards of inspectors; supplying vacancies and absences.**—Before otherwise entering upon their duties, the inspectors of each district shall meet and appoint one of their number chairman; or, if a majority shall not agree upon such appointment, they shall draw lots for that position. If at the time of any meeting of the inspectors there shall be a vacancy in the office of any inspector, or if any inspectors shall be absent from any such meeting, the inspector or inspectors present shall appoint a qualified elector of the district, who shall be a member of the same political party as the absent inspector, to act until such absent inspector, or his successor duly appointed under the provisions of section twelve, shall appear, and such person, if so serving temporarily, shall serve without pay. If, at any such time, the offices of all inspectors are vacant, or no inspector shall appear within one hour after the time fixed by law for the opening of such meeting, the qualified voters of the dis-

trict present, not less than ten, may designate four qualified electors of the district belonging to the political parties as specified in section eleven, to fill such vacancies, or to act in the place of such inspectors respectively, until the absent inspectors respectively appear. If at any time there shall be a vacancy in the office of any poll clerk or ballot clerk, or if any poll clerk or ballot clerk shall be absent from such meeting, the inspector or inspectors present shall appoint a qualified elector of the district, who shall be a member of the same political party as the absent poll clerk or ballot clerk to fill such vacancy. Every person so appointed or designated to act as an inspector, poll clerk or ballot clerk shall take the constitutional and statutory oaths as prescribed by the election law.

[For Forms for Appointments and Oaths, see Forms Nos. 3, 4, 5, 6, 8 and 11, pages 29, 30, 31.]

**Election not vitiated** if inspectors or clerks fail to take oath, though such failure might be punished by indictment. (*People v. Cook*, 8 N. Y. 84.)

**Form of constitutional oath.** See Form No. 10.

**Similar provision as to supplying vacancy** in office of poll or ballot clerk at town elections. (*Election Law*, § 13.)

**If no clerks can be procured** election is not to fail, but inspectors must perform the clerk's duties. (*People v. Cook*, 8 N. Y. 88.)

**Ballot clerks dispensed with** where Myers ballot machine is used. (*Laws of 1894, chap. 764, § 19.*)

**Civil service rules and regulations** do not apply to election officers. (*Laws 1884, chap. 357, § 8.*)

§ 15. **Preservation of order by inspectors.**—All meetings of the board of inspectors shall be public. Such board and each individual member thereof shall have full authority to preserve peace and good order at such meetings, and around the polls of elections, and to keep the access thereto unobstructed, and to enforce obedience to their lawful commands. The said board may appoint one or more electors to communicate their orders and directions, and to assist in the performance of their duties in this section enjoined. If any person shall refuse to obey the lawful commands of the inspectors, or by disorderly conduct in their presence or hearing shall interrupt or disturb their proceedings, they shall make an order directing the sheriff or any constable of the county, or any peace or police officer to take the person so



offending into custody and retain him until the registration of electors, or the canvass of the votes shall be completed, but such order shall not prohibit the person taken into custody from voting. Such order shall be executed by any sheriff, constable, peace or police officer, to whom the same shall be delivered. But if none shall be present, then by any other person deputed by such board in writing. The said board or any member thereof, may order the arrest of any person other than an election officer violating or attempting to violate, any of the provisions of this election law.

[For Forms for Precept and Deputation, see Forms Nos. 12 and 13, pages 32, 33.]

**Disobedience of orders of inspectors.**—“Willfully disobeys any lawful command of the board of inspectors, or any member thereof, is guilty of a misdemeanor.” (*Subd. 17, § 41k, Penal Code, as amended by chap. 714, Laws 1894.*)

**Arrest without a warrant** may be made by either a peace officer or a private citizen when a crime is committed in his presence. (*Code Crim. Pro. §§ 177, 183.*)

**Inspectors have a right to keep order** during canvass, but under pretense of same they have no right to turn out a peaceful and quiet citizen whose presence does not interfere with the discharge of their duties. (*Horton v. Whistler*, 4 N. Y. St. Repr. 810.)

§ 16. **Ballot boxes.**—There shall be but one ballot box at each polling place for receiving all ballots cast for candidates for office, which box shall be conspicuously marked “Box for general ballots.” There shall also be a ballot box for the reception of ballots found to be defective in printing, or mutilated before delivery to electors, and for ballots spoiled and returned by electors, which box shall be conspicuously marked “Box for spoiled and mutilated ballots.” There shall also be a box for detached ballot stubs, which box shall be conspicuously marked, “Box for detached ballot stubs.” If proposed constitutional amendments, or other propositions or questions may lawfully be voted upon thereat, there shall be a separate ballot box at each polling place for the reception of ballots upon such amendments or propositions, or questions, which box shall be marked conspicuously, “Box for questions submitted.” Each box used for the reception of voted ballots shall be provided with a sufficient lock and key, and with an opening in the top thereof large enough, and

not larger than may be necessary to allow a single folded ballot to be easily passed through such opening into the box. Each box shall be large enough to properly receive and hold all ballots which may lawfully be deposited therein at any election.

**But one box may be used** for receiving all ballots cast for candidates for office according to the above section. The provision, therefore, for a separate box and ballot for use in voting for commissioners of excise at town meetings, as found in section 38 of the Town Law, can be no longer in force.

**The question whether or not liquor shall be sold** in a certain town shall be voted on at town meeting by using a separate ballot and the ballot box designed for constitutional amendments. (*Election Law*, § 82; *Laws of 1896, chap. 112*, § 16.)

**Ballots found in wrong box** not to be rejected. (*Election Law*, § 110.)

§ 17. **Voting booths and guard rails.** — There shall be in each polling place during each election a sufficient number of voting booths, not less than one for every seventy-five registered electors in the district. Each such booth shall be at least three feet square, shall have four sides enclosed, each at least six feet high, and the one in front shall open and shut as a door swinging outward, and shall extend within two feet of the floor. Each such booth shall contain a shelf which shall be at least one foot wide, extending across one side of the booth at a convenient height for writing, and shall be furnished with such supplies and conveniences including pencils having black lead only, as will enable the electors to conveniently prepare their ballots for voting. Each booth shall be kept clearly lighted while the polls are open by artificial lights if necessary. A guard rail shall be placed at each polling place at least six feet from the ballot boxes and the booths, and no ballot box or booth shall be placed within six feet of such rail. Each guard rail shall be provided with a place for entrance and exit. The arrangement of the polling place shall be such that the booths can only be reached by passing within the guard rail, and that the booths, ballot boxes, election officers and every part of the polling place except the inside of the booths, shall be in plain view of the election officers and the persons just outside the guard rail. Such booths shall be so

arranged that there shall be no access to intending voters or to the booths through any door, window, or opening, except by the door in front of said booth.

**Removal, mutilation or destruction of election booths, supplies, etc.**

—“ Any person who :

“ 1. During an election or town meeting, willfully defaces or injures a voting booth or compartment, or willfully removes or destroys any of the supplies or other conveniences placed in the voting booths or compartments in pursuance of law ; or,

“ 2. Before the closing of the polls, willfully defaces or destroys any list of candidates to be voted for at such election or town meeting, posted in accordance with the election law ; or,

“ 3. During an election or town meeting, willfully removes or defaces the cards for the instruction of voters, posted in accordance with the election law, is guilty of a misdemeanor.” (§ 41e, *Penal Code*.)

**Supplies for voting booths to be furnished** by officer designated in Election Law. (See § 86, *Election Law*.)

**§ 18. Payment of election expenses.**—The expense of providing polling places, voting booths, supplies therefor, guard rails and other furniture of the polling place, and distance markers, and the compensation of the election officers in each election district, shall be a charge upon the town or city in which such election district is situated, except that such expenses incurred for the purpose of conducting a village election, not held at the same time as a general election, shall be a charge upon the village. The expense of printing and delivering the official ballots, sample ballots and cards of instruction, poll books, tally sheets, return sheets for inspectors and ballot clerks, and distance markers to be used at a town meeting, city or village elections not held at the same time as a general election, and of printing the list of nominations therefor, shall be a charge upon the town, city or village in which the election is held. The expense of printing and delivering the official ballots, sample ballots and cards of instruction, poll books, tally sheets, return sheets for inspectors and ballot clerks, and distance markers, to be used in any county at any other election, if no town meeting, city or village election be held at the same time therewith, and of printing the lists of nominations therefor, shall be a charge upon such county. The expense of printing and delivering the official ballots, sample ballots and cards of instruction,

poll books, tally sheets, return sheets for inspectors and ballot clerks and distance markers, to be used in any county at any such other election, and of printing the lists of nominations therefor, if the town meeting, city or village election be held in such county at the same time therewith, shall be apportioned by the county clerk between such town, city or village and such county, in the proportion of the number of candidates for town, city or village officers on such ballots, respectively, to the whole number of candidates thereon, and the amount of such expense so apportioned to each such municipality shall be a charge thereon. All expenses lawfully incurred by the board of police commissioners of the city of New York, and by the board of elections of the city of Brooklyn, shall be a charge on such respective cities, and after being audited by the proper officer, shall be paid by the comptroller of said respective cities upon the certificate of such boards, respectively. The county clerk of each county, not salaried, shall be paid by such county a reasonable compensation for his services in carrying out the provisions of this chapter, to be fixed by the board of supervisors of the county, or the board acting as such board of supervisors. The town clerk of each town shall be paid by such town a reasonable compensation for his services in carrying out the provisions of this chapter, to be fixed by the other members of the town board of the town. Ballot clerks, and persons acting as such, shall receive the same compensation for their attendance at an election, as inspectors of election for the election, and be paid in like manner. An inspector of election lawfully required to file papers in the county clerk's office, shall, unless he resides in the city or town in which such office is situated, be entitled to receive as compensation therefor five dollars, and also four cents a mile for every mile actually and necessarily traveled between his residence and such county clerk's office in going to and returning from such office. In cities of the first class, the persons appointed and serving as inspectors of election shall receive five dollars for the hours fixed by law for each day of registration, and of revision of registration for a special election, and five dollars for the hours fixed by law for the election, and five dollars for the canvass and return of the votes. The poll clerks

in such cities shall each receive the same compensation as inspectors for the election and for the canvass of the votes, and the ballot clerks shall receive five dollars each. Such officers shall be paid by the comptroller of their respective cities upon the certificate of the board appointing them.

**Compensation of election officers in towns.**—“The following town officers shall be entitled to compensation at the following rates for each day actually and necessarily devoted by them to the service of the town, in the duties of their respective offices, when no fee is allowed by law for their service: The supervisor \* \* \* inspectors of election and clerk of polls, two dollars per day, each of them.” (*Extract from § 178, Town Law, as amended by chap. 297, Laws 1893.*)

[For Form for Bill, see Form No. 14, page 33.]

**§ 19. Delivery of election laws to clerks, boards and election officers.**—The secretary of state shall cause to be prepared a compilation of all the laws relating to elections in cities, towns, and villages in force on the fifteenth day of May, in the year eighteen hundred and ninety-six, together with subsequent amendments thereto, with annotations and explanatory notes and blank forms, properly indexed, and shall procure the same to be printed wherever he deems it desirable for the best interests of the state, and shall, at least sixty days before each general election held after this chapter takes effect, transmit to the county clerk of each county, except New York and Kings, and to the board of police commissioners of the city of New York, and the board of elections of the city of Brooklyn, a sufficient number of copies thereof, to furnish one such copy to the county clerk and members of such boards, and one to each town, village and city clerk, and to each election officer in such county and said cities. The county clerk of each county, except New York and Kings, and the board of police commissioners of the city of New York and the board of elections of the city of Brooklyn, shall forthwith transmit one of each such copies to each such officer in such county or city. Each copy so received by each such officer shall belong to the office of the person receiving it. Every incumbent of the office shall preserve such copy during his term of office, and upon the expiration of his term, deliver it to his successor.

## FORMS FOR ELECTION LAW, ARTICLE I.

### FORM No. 1.

(See § 19, Town Law.)

#### Appointment of additional inspectors in towns.

We, the presiding officers of the annual town meeting, held in the town of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_, pursuant to the provisions of section 19 of the Town Law, do hereby appoint \_\_\_\_\_ and \_\_\_\_\_ inspectors of election for election district No. 1, and \_\_\_\_\_ and \_\_\_\_\_ inspectors of election for election district No. 2 (and so on), inspectors to be associated with the two inspectors in each of said districts who have this day been elected inspectors of election for the ensuing year.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

(To be signed by a majority of the presiding officers and filed with the town clerk.)

### FORM No. 2.

(See § 65, Town Law.)

#### Appointment of inspectors to fill vacancies by town board.

\_\_\_\_\_ is hereby appointed inspector of election in and for district No. \_\_\_\_\_, in the town of \_\_\_\_\_, to fill the vacancy occasioned by the neglect of \_\_\_\_\_ to take and file oath (or occasioned by the death, removal or inability to serve, as the case may be of \_\_\_\_\_).

Given under our hands and seal this \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

_____	<i>Supervisor.</i>	[L. S.]
_____	<i>Town Clerk.</i>	[L. S.]
_____	} <i>Justices of the Peace.</i>	[L. S.]
_____		[L. S.]
_____		[L. S.]

(The above to be forthwith filed with the town clerk, who shall forthwith give notice to the person appointed.)

### FORM No. 3.

(See § 14, Election Law.)

#### Appointment of inspector to fill vacancy at meeting of inspectors.

There being a vacancy in the office of inspector for election district No. \_\_\_\_\_, of the town of \_\_\_\_\_, held by \_\_\_\_\_, I (or we), pursuant to the provisions of section 14 of the Election Law, hereby appoint \_\_\_\_\_ to fill such vacancy.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
*Inspectors of Election.*

(To be filed in city or town clerk's office.)

**FORM No. 4.**

(See § 14, Election Law.)

**Designation by inspectors of elector to act as inspector.**

, one of the inspectors of election of the election district of , not being present at the meeting of the inspectors held this day, I (or we), pursuant to section 14 of the Election Law, do hereby designate , a duly qualified elector of the said election district, to act as inspector of election in place of until he or his duly appointed successor shall appear.

Dated this day of , 189 .

\_\_\_\_\_  
\_\_\_\_\_  
*Inspectors of Election.*

(To be filed in city or town clerk's office.)

**FORM No. 5.**

(See § 14, Election Law.)

**Designation by electors to fill vacancies.**

The offices of all the inspectors of election district No. , of the town of , being vacant, we, the undersigned, qualified voters of said district, present, pursuant to the provisions of section 14 of the Election Law, do hereby designate and , duly qualified voters of the said district, to fill such vacancies.

Dated this day of , 189 .

(Should be signed by not less than ten duly qualified electors and filed in city or town clerk's office.)

**FORM No. 6.**

(See § 14, Election Law.)

**Designation by electors of persons to act as inspectors.**

All the inspectors of election for election district No. of the town of , not appearing within one hour after the time fixed by law for the opening of the meeting of inspectors to be held this day, we, the undersigned, duly qualified electors of said district, hereby appoint to act in the place of , and to act in the place of until such absent inspectors, respectively, appear.

Dated this day of , 189 .

(To be signed by not less than ten duly qualified electors and filed in city or town clerk's office.)

**FORM No. 7.**

(See § 14, Election Law.)

**Appointment of poll clerks and ballot clerks in towns.**

We, the undersigned (elected or appointed, as the case may be), inspectors of the election district of the town of , do

hereby appoint \_\_\_\_\_ to the office of poll clerk in and for said  
district, and \_\_\_\_\_ to the office of ballot clerk, pursuant to the  
provisions of sections thirteen and fourteen of the Election Law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

*Inspectors of Election.*

**FORM No. 8.**

(See § 14, Election Law.)

**Appointment of poll or ballot clerk to fill vacancy at meetings of inspectors.**

There being a vacancy in the office of poll clerk (or ballot clerk) in election district No. \_\_\_\_\_ of the town of \_\_\_\_\_, we hereby appoint \_\_\_\_\_ to fill such vacancy, pursuant to the provisions of sections thirteen and fourteen of the Election Law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

*Inspectors of Election.*

(Appointment to be filed with town or city clerk.)

**FORM No. 9.**

(See § 14, Election Law.)

**Appointment of persons at meeting of inspectors in place of absent poll or ballot clerk.**

\_\_\_\_\_, a duly appointed poll (or ballot) clerk, being absent from the meeting of inspectors of election, in election district No. \_\_\_\_\_

of the town of \_\_\_\_\_, held this day, I (or we) hereby appoint

\_\_\_\_\_ to act as poll (or ballot) clerk, in place of \_\_\_\_\_, pursuant to the provisions of sections thirteen and fourteen of the Election Law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

*Inspectors of Election.*

(The above appointments to be filed with town clerk or city clerk.)

**FORM No. 10.**

**Oath for elective election officers.**

I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the state of New York, and that I will faithfully discharge the duties of the office of inspector of election,



according to the best of my ability. And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed or offered or promised to contribute, any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote.

(Signed) \_\_\_\_\_

Subscribed and sworn before me, }  
 this day of , 189 . }

In addition to the above oath, elective officers must take the statutory oath provided for in subdivision 2, section 24, of the Election Law before the opening of polls on election day.

#### FORM No. 11.

##### Oath for appointive election officers.

I do solemnly swear I will support the constitution of the United States and the constitution of the state of New York, and that I will faithfully discharge the duties of the office of inspector of election according to the best of my ability.

I do further solemnly swear (or affirm) that I will not in any manner request, or seek to persuade, or induce any elector to vote any particular ticket, or for any particular candidate, and that I will not keep or make any memoranda or entry of anything occurring within the booth, and that I will not, directly or indirectly, reveal to any person the name of any candidate voted for by any elector, or which ticket he has voted, or anything occurring within the voting booth, except I may be called upon to testify in a judicial proceeding for a violation of the election law.

(Signature of Appointee) \_\_\_\_\_

Sworn and subscribed to this day }  
 of September, 1896, before me. }

#### FORM No. 12.

(See § 15, Election Law.)

##### Precept in case of refusal to obey the lawful commands of the inspector.

(Blank precepts should be provided beforehand and be in possession of the board ready to be filled up for use.)

The people of the state of New York to the sheriff of the (city and) county of , or any constable, peace or police officer of said (city or) county:

WHEREAS, at the present annual (or special) election, held in and for election district No. . in the town of (or in the ward of the city of ), in said county, did willfully and intentionally obstruct the passageway to the polls of the said election, thereby hindering and preventing free access to the said poll, in open and known violation of the command of us, the undersigned, inspectors

**TIMES, PLACES, NOTICES, ETC., OF ELECTIONS—FORMS. 33**

of this election, previously and publicly given in his hearing. You are, therefore, hereby ordered forthwith to arrest the said \_\_\_\_\_, and him safely keep and detain in custody until (the registration of electors or the canvass of the votes given in this election district shall be completed.)

Given under our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_.

**Deputation to be written on back of precept in case no sheriff or constable is present.**

No sheriff or constable being present we hereby depute \_\_\_\_\_ to execute the within process.

**FORM No. 13.**

(See § 15, Election Law.)

**Precept in case of disorderly conduct in presence or hearing of inspectors.**

The people of the state of New York to the sheriff of the (city and) county of \_\_\_\_\_, or to any constable, peace or police officer of said county:

WHEREAS, at the present annual (or special) election, held in and for election district No. \_\_\_\_\_ in the town of \_\_\_\_\_ (or in the \_\_\_\_\_ ward of the city of \_\_\_\_\_), in said (city and) county, \_\_\_\_\_, in the presence (or in the hearing) of us, the undersigned, inspectors of the said election, did by disorderly conduct, to wit, by (here describe the misconduct particularly, as by loud and boisterous noises, or by violent stamping, or by assaulting \_\_\_\_\_, etc., or by commencing a riot and affray with divers persons, or as the case may be) interrupt and disturb the proceedings of us, the said inspectors, in conducting the election. You are, therefore, hereby ordered forthwith to arrest the said \_\_\_\_\_, and him safely detain in custody until (the registration of electors or the canvass of the votes given in this election district shall be completed).

Given under our hands and seals, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_.

**FORM No. 14.**

(See § 167, Town Law.)

**Bill for compensation.**

ALBANY, *November* \_\_\_\_\_, 18 \_\_\_\_.

TOWN OF GUILDERLAND,

TO JOHN SMITH, INSPECTOR OF ELECTION, *Dr.*

1893.

Oct. 22.	To attendance at meeting for registry .....	\$4 00
29.	To attendance at meeting for registry .....	4 00
	5	

1893.		
Nov. 9.	To attendance at election*.....	\$4 00
10.	To filing election returns, etc., in county clerk's office†.....	5 00
10.	To mileage in filing election returns, etc., in county clerk's office, 20 miles. at 4c. f.....	80
		<hr/> \$17 80

Received payment,  
JOHN SMITH.

STATE OF NEW YORK, } ss.:  
ALBANY COUNTY, }

John Smith, inspector of election for the first election district of the town of Guilderland, in said county, being duly sworn, deposes and says, that the items contained in the foregoing account are correct, and that the services charged therein have been in fact rendered and that no part thereof has been paid or satisfied.

JOHN SMITH,  
*Inspector of Election.*

Sworn to before me this 18 day of 18 .

(The above oath may be taken before the chairman of the town board or any other person authorized to administer oaths.)

### Chairman's certificate of service.

(See § 12, Election Law.)

....., N. Y., November 3d, 1896.  
..... Election district ..... [Assembly district, Ward, Town.]  
To the [Mayor of....., or Appointing Board]:  
I hereby certify, pursuant to the provisions of section 12 of the election law, that the following named persons served as election officers, in the above-named election district, for and at the general election, November 3d, 1896, on the dates set opposite their names and not canceled:

Signed \_\_\_\_\_  
*Chairman of Board of Inspectors.*

Names.	Residences.	Days of service.
.....	.....	Oct. 9th, 10th, 16th, 17th, Nov. 3d.
.....	.....	Oct. 9th, 10th, 16th, 17th, Nov. 3d.
.....	.....	Oct. 9th, 10th, 16th, 17th, Nov. 3d.
.....	.....	Oct. 9th, 10th, 16th, 17th, Nov. 3d.
.....	.....	Oct. 9th, 10th, 16th, 17th, Nov. 3d.
.....	.....	Oct. 9th, 10th, 16th, 17th, Nov. 3d.
<i>Poll Clerks.</i>		
.....	.....	November 3d.
.....	.....	November 3d.
.....	.....	November 3d.
<i>Ballot Clerks.</i>		
.....	.....	November 3d.
.....	.....	November 3d.
.....	.....	November 3d.

### Use of Registration and Polling Place.

I hereby further certify that the place designated in the above-named district for registration and election purposes at No..... was used for such purposes on the following dates which are not erased: October 9th, 10th, 16th, 17th, November 3d, 1896.

Signed \_\_\_\_\_  
*Chairman of Board of Inspectors.*

NOTE.—The chairman of the board of inspectors must fill out this certificate at the close of the canvass and return it to the mayor or board appointing such officers within twenty-four hours thereafter. In the case of any election officer who has not served on any of the dates set opposite his name the chairman should draw a line in ink through such date, thus canceling it. The names of persons who may have served temporarily as election officers, but who are not entitled to pay for such services, *must not* appear upon this certificate.

Any chairman who shall willfully make a false certificate is guilty of a misdemeanor. (Pt. § 12, Election Law.)

\* There appears to be no general provision of law fixing the number of hours for a day's service, except that in cities of the first class the election officers are to be paid at the rate of five dollars each for the hours fixed by law for registration, the election, and for the canvass and return of votes. The question is appropriately one for settlement by town or city auditing boards. It is customary, however, in many of the counties to allow two days' compensation for each day of attendance at meetings for registry and on election day.

† In county seat towns inspectors cannot charge for this service, and only the inspector designated to file returns should include this item in his bill.

**ARTICLE II.****Registration of Electors.**

- SECTION** 30. Meetings of registration.
31. Adding and erasing names on register.
  32. Forms for registration.
  33. Method of registration.
  34. General provisions.
  35. Certification and custody of register.
  36. Delivery of blank books for registration, certificates and instructions.

§ 30. **Meetings for registration.**— Before every general election, the board of inspectors for each election district in every city, and in villages having five thousand inhabitants or more, shall hold four meetings for the registration of the electors thereof, at the place designated therefor, on the fourth Friday, fourth Saturday and the third Friday and third Saturday before such election, to be known respectively as the first, second, third and fourth meetings for registration. Each meeting, if in cities of the first class, shall begin at seven o'clock, if elsewhere, at eight o'clock in the forenoon, and continue, if in cities of the first class, until ten o'clock, if elsewhere, until nine o'clock in the evening. In all election districts other than in cities or villages having five thousand inhabitants or more, the board of inspectors of election for each such election district shall hold two meetings for the registration of electors thereof, at the places designated therefor, before each general election, viz., on the fourth and third Saturday before the election, to be known respectively as the first and second meetings for registration, which meetings shall begin at nine o'clock in the forenoon and continue until nine o'clock in the evening. The board of inspectors of election shall also, if ordered so to do by the supreme court, or a justice thereof, or a county judge, as provided in section thirty-one of the election law, meet on the second Saturday before each general election for the purpose of correcting the registers by adding to or striking off the name of any person as directed by such order. It shall be the duty of each inspector of election to make a note on the registers opposite the name of each person so enrolled, or so stricken off, of the date of

such order, and the court, justice or judge issuing the same. If any special election shall be ordered in any city or village, the inspectors of election of the various election districts in which such special election is to be held, shall meet in their respective districts at the place designated therefor, on the second Saturday preceding such special election, from eight o'clock in the forenoon to ten o'clock in the evening for the purpose of revising and correcting the register of electors as hereinafter provided. No inspector shall on any day for registration be absent during the hours fixed for enrolling the names of electors.

**§ 4. Registration of voters.**—“Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established, and for the registration of voters; which registration shall be completed at least ten days before each election. Such registration shall not be required for town and village elections except by express provision of law. In cities and villages having five thousand inhabitants or more, according to the last preceding state enumeration of inhabitants, voters shall be registered upon personal application only; but voters not residing in such cities or villages shall not be required to apply in person for registration at the first meeting of the officers having charge of the registry of voters.” (§ 4, *art. 2, Constitution*.)

**No part of registration days a holiday.**—“No part of a day fixed for the registration of electors shall be deemed a holiday so as to affect any meeting or proceeding of the board of inspectors for registration.” (*Subdivision 5, § 34, Election Law*.)

**The statutory provision as to closing** the meetings for registration at a certain hour refers to the closing of the place of registration, and inspectors should not refuse to register those who are present within the place of registration at the time for closing. (*People ex rel. Cass v. Hosmer*, 2 How. [N. S.] 472.)

**Misconduct of registry officers.**—“Any member or clerk of a registry board who willfully violates any provision of the election law relative to registration of electors or willfully neglects or refuses to perform any duty imposed on him by law, or is guilty of any fraud in the execution of the duties of his office, shall be punishable by imprisonment for not less than two nor more than ten years.” (§ 41c, *Penal Code, chap. 693, Laws 1892, as amended by chap. 692, Laws 1893*.)

**§ 31. Adding and erasing names on register.**—If the board of inspectors at any meeting for the registration of electors shall have neglected or refused to place upon the register of electors the name of any person who is entitled to have his name placed thereon, application may be made to the

supreme court, or any justice thereof in the judicial district in which such election district is located, or of a county adjoining such judicial district, or to a county judge of the county in which such election district is located, on a day at least two days prior to the second Saturday before any election, for an order to place such name upon the register of electors; and such court, justice or judge may, upon sufficient evidence, and upon such notice of not less than twenty-four hours to the board of inspectors, and such other person interested of such application as the court, justice or judge may require, order such inspectors to convene as a board of registration on the second Saturday before such election, and to add the name of such person to such register of electors, and such register shall be corrected accordingly; but no court, justice or judge shall order the name of any person to be added to the register of electors unless it shall have been omitted therefrom through the fault, error or negligence of the election officers. In case the name of any person who will not be qualified to vote in such election district, at the election for which such registration is made, shall appear upon such register, application may be made in like manner by any elector of the town or city in which such election district is located to any court, justice or judge hereinbefore designated, for an order striking such name from the register, and such court, justice or judge may, upon sufficient evidence, and upon such notice of not less than twenty-four hours to the person interested of such application as the court, justice or judge may require, served either personally or by depositing the same in the post-office addressed to said person by his name, and at the address which appears in the register certified by the inspectors of election, proceed to convene the board of inspectors as provided herein for adding a name, and may order such board to strike such name from such register of electors, and such register shall be corrected accordingly.

**A judge at chambers** may order a name stricken from the registry list, but only in cases where there is absolutely no doubt as to the fact that the voter is not and cannot become qualified. If there is dispute as to the facts the voter should be left to swear in his vote at his peril. (*Matter of Goodman*, 146 N. Y. 284.)

*Matter of Hamilton* (80 Hun, 511), and *Matter of Ward* (48 N. Y. St. Repr. 613), holding that a judge can compel a name to be added to or stricken from the registry list only when the inspectors have failed in their ministerial duty in placing the name upon the list when the applicant has taken the required oaths, etc., were practically overruled by *Matter of Goodman* (146 N. Y. 284).

§ 32. **Forms for registration.**—Subdivision 1. The board of inspectors of each election district in the state shall, at their meetings for registration for the general election in each year, make a quadruplicate register—one copy by each inspector—of the names and residences of those persons, and none other, who are or will be qualified to vote in such district at such election, which register, when finally completed, shall be the register of electors of the district for such election. Such register shall also be used at all other elections held in such district during the year succeeding the election for which it is made, except for town meetings and village elections for which no registration is required. In cities of the first class, the register shall be arranged in fifteen columns. In the first column of such register there shall be entered at the time of the completion of the registration on the last day for registration, a number opposite the name of each person so enrolled, beginning with “1” and continuing in numerical order. On each day of registration there shall be entered in the second column thereof the surnames of such persons in the alphabetical order of the first letter thereof, and in the third column the Christian names of such persons respectively. In the fourth column shall be entered the residence number or other designation, and in the fifth column the name of the street or avenue of such residence or a brief description of the locality thereof. In the sixth column shall be entered the number of the floor or room occupied by the elector at the residence given by him, in the seventh column shall be entered his age, in the eighth, ninth and tenth columns his length of residence in the state, county and election district, respectively; in the eleventh column shall be entered the fact, if he be a native citizen. In the twelfth column the fact, if he be a naturalized citizen; in the thirteenth column shall be entered the date of the registration of the elector. The fourteenth column shall be reserved for entering the consecutive number

on the stub of the official ballot voted by the elector on election day. In the fifteenth column shall be entered, opposite the name of each elector, under the heading "remarks," the facts regarding challenges, oaths and other facts affecting such elector required to be recorded.

Subdivision 2. In all election districts other than in cities of the first class, the register shall be arranged in eight columns. In the first column of such register there shall be entered at the time of the completion of such registration on the last day thereof, a number opposite the name of each person so enrolled, commencing with "1" and continuing in numerical order. On each day of registration there shall be entered in the second column thereof surnames of such persons in the alphabetical order of the first letter thereof, and in the third column the Christian names of such persons respectively. In the fourth column shall be entered the residence number or other designation, and in the fifth column the name of the street or avenue of such residence, and a brief description of the locality thereof. In the sixth column shall be entered the date on which the elector was registered. The seventh column shall be reserved for entering the consecutive number on the stub of the official ballot voted by the elector on election day. In the eighth column shall be entered opposite the name of each elector, under the heading "remarks," the facts regarding challenges, oaths and other facts affecting such elector required to be recorded.

Subdivision 3. In cities of the first class, the board of inspectors of each election district shall, immediately after the close of each day of registration, make and complete one list of all persons enrolled in their respective districts, in the numerical order of the street numbers thereof which list shall be signed and certified by the board of inspectors. Such list shall be delivered by the chairman of the board of inspectors to the police captain of the precinct in which the election district is located, or an officer thereof, who shall forthwith deliver the same, if in the city of New York, to the supervisor of the City Record, if in the city of Brooklyn to the board of elections, and if in the city of Buffalo, to the city clerk. In the city of New York such list, compiled by assembly districts, shall be published in the City Record within three calendar



days after the last day of registration and before the election. In the city of Brooklyn the board of elections, and in the city of Buffalo the city clerk shall, as soon as possible after the delivery of such list, and before the day of election, print and distribute, in pamphlet form, for each ward, not less than fifty times as many copies of said list as there are election districts in such ward, so that each ward pamphlet shall contain the lists of the several election districts in such ward. Such lists shall be made in the following form, to wit:

Residence number, or other designation.	GRAND STREET.	Name of voter.
14.		Smith, John M.
15.		Jones, Charles M.

**Entries to be made in registers regarding challenges, oaths, etc.—**

1. The words "to be challenged" shall be placed opposite the names of persons registered if any elector of the district shall make oath that he has reason to believe that any person on the register of electors will not be a qualified voter at the next election. (*See § 34, subd. 7, p. 46.*)

2. The fact that the statement filed with inspectors by persons claiming to be persons mentioned and referred to in subdivision two of section thirty-four of the Election Laws is attached to register shall be noted in the register opposite the name of the person so enrolled. (*See § 34, subd. 1, p. 44.*)

3. The inspectors are required to make a note upon the register of each instance in which an oath of illiteracy or physical disability is administered, and of the cause or reason assigned. (*See § 34, subd. 3, p. 45.*)

4. Inspectors are to make a note upon the registers, opposite the names of persons enrolled or stricken off therefrom by order of court, justice or judge, of the date of such order, and the court, justice or judge issuing it. (*See § 30, p. 35.*)

**Registers, certificates, instructions, etc.,** to be furnished each election district by the secretary of state through the county clerk. (*Election Law, § 36, subd. 1.*)

**Mutilation, destruction or loss of registry list.**—"Any person who willfully loses, destroys or mutilates the list or register of voters in any election district, or a certified copy thereof, after the making of the same and before the closing of the polls of the election for which the same is made, is guilty of a misdemeanor." (§ 41b, *Penal Code.*)

**Alteration, mutilation, removal, etc., of public copy.**—"Any person who shall alter, mutilate, destroy or remove from the place of registration the public copy of such registration, shall be guilty of a felony, and shall be punished upon conviction thereof by imprisonment in a state prison for not less than two nor more than five years, unless otherwise provided by law." (*Part subd. 2, § 35, Election Law.*)

**Failure of house-dweller to answer inquiries.**—“Any person dwelling in a building in a city who willfully refuses to truly answer any question asked by an elector of such city, between the first meeting of the boards of registry therein for any election and the closing of the polls at such election, relating to the residence and qualifications as a voter of any person dwelling in such building, or of any person who appears upon the list or register of voters made by a board of registry as residing at such building, is guilty of a misdemeanor.” (§ 41*d*, *Penal Code*.)

**Lodging-house keepers in cities of first class to keep register.**—“Every proprietor, lessee or keeper of a licensed lodging-house in cities of the first class, shall between September first and November fifteenth, of each year, keep a daily register of lodgers within such lodging-houses.” (§ 1, *chap.* 758, *Laws* 1895.)

**Returns of lodgers to board of health.**—“Every such proprietor, lessee or keeper of such lodging-house shall, during the said period, between September first and November fifteenth, make sworn fortnightly returns to the board of health of such city, according to the general regulations and upon blank forms to be prescribed by said board, containing the names of the lodgers therein during the twenty-four hours preceding the making of such return, and the facts as to each required to be stated in said register.” (§ 3, *chap.* 753, *Laws* 1895.)

**Penalties for violations by lodging-house keepers.**—“Any violation of this act by the proprietor, lessee or keeper of a licensed lodging-house in cities of the first class shall be a misdemeanor and punishable by a fine of ten dollars or by imprisonment for ten days for each and every offense and shall also cause the license of such lodging-house to be revoked.” (§ 6, *chap.* 752, *Laws* 1895.)

§ 33. **Method of registration.**—Subdivision 1. In cities and in villages having five thousand inhabitants or more, the names of such persons only as personally appear before the inspectors, and who are or who will be at the election for which the registration is made, qualified electors, shall be enrolled upon the register at a meeting for registration for a general election, except that whenever any election district in a village having five thousand inhabitants or more shall embrace within its boundaries, territory without the limits of such village, the inspectors shall, at their first meeting for registration for a general election, place upon such register the names of all persons appearing on the register of the last preceding general election, who resided without the limits of such village, but within the election district, who voted at such last preceding general election, except the names of such electors who are proven to the satisfaction of such inspectors

to have ceased to be electors since such general election, or have moved within the limits of such village. They shall also place upon such register, at their first and subsequent meetings, the names of all other persons known or proven to their satisfaction, who are or will be entitled to vote at the election, who reside within such election district, but without the limits of such city or village.

Subdivision 2. In cities of the first class the board of inspectors shall issue to every person enrolled upon the register, a certificate in which shall be written the name and address given by such person, and the date of such entry upon the register. Such certificate shall be retained by the person to whom it is issued as evidence of the fact that such name and address were entered upon the register.

Subdivision 3. At the first meeting for registration in all election districts where only two meetings for the enrollment of electors are held for any general election, as provided in section thirty of the election law, the inspectors shall at such first meeting, place upon the register the names of all persons who voted at the last preceding general election, as shown by the register or poll book of such election, except the names of such electors as are proven to the satisfaction of such inspectors to have ceased to be electors in such district since such general election, and also at said first meeting and at the second meeting, they shall place on the register the names of all persons known or proven to the satisfaction of the inspectors, who are, or will be, entitled to vote at the election for which such registration is made.

Subdivision 4. At the meeting of the board of inspectors in a city or village having five thousand inhabitants or more, for revising and correcting the register for any election other than a general election, the inspectors shall retain upon the register of their respective districts, the names of all persons qualified to vote at such election in such district, which appear upon the register of electors for the last preceding general election in such election district, except the names of such electors as are proven to the satisfaction of the inspectors to have ceased to be electors of such district since their names were placed upon such register, and shall, at such meeting,

add only to such register the names of the persons qualified as electors, who shall personally appear before the board. If, however, such elector resides within such election district, but without the limits of such village, his name shall be placed upon such register, if it is shown to the satisfaction of such board that he is entitled to vote therein. In cities of the first class any elector who was enrolled upon the register in an election district of such city at the last preceding general election, and who since that time shall have removed into another election district in the same city, and who is otherwise qualified to vote at such special election, shall, upon demand, receive from the board of inspectors of the district in which his name was enrolled for such last preceding general election, a certificate duly signed by the said board of the fact that his name was upon such register, and has been erased therefrom because of such removal, and his name shall thereupon be erased from such register. Upon presentation of such certificate by the elector to the board of inspectors of the election district in which he resides, his name shall be placed upon the register for such district. The inspectors must note upon the register opposite the name of such elector, the fact of such certificate of removal, specifying the election district from which he has removed. They shall carefully attach such certificate to the register. No elector shall cause his name to be placed upon the register of an election district for any election other than a general election, while his name shall appear upon the register of another district to be used at such election. Any person who shall violate this provision is guilty of a felony, and upon conviction shall be punished by imprisonment in a state prison for not less than two or more than five years. In all election districts other than in cities or in villages of five thousand inhabitants or more, the board of inspectors in preparing for an election other than a general election shall add to the register for the last preceding general election, the names of such electors as they know are or are satisfied by proof will be, on the day of such election, entitled to vote thereat, and shall strike therefrom the name of all persons whom they know or are satisfied by proof have ceased to be qualified electors of such election district. No

registration of electors shall be required for town or village elections.

**Electors cannot be deprived of their votes** because of the failure of the inspectors to comply with the requirements of the law in preparing the registers. (*People ex rel. Frost v. Wilson*, 62 N. Y. 186.)

**§ 34. General provisions.**—Subdivision 1.—**Qualification of elector.**—A person is a qualified elector in any election district for the purpose of having his name placed on the register if he is or will be, on the day of the election, qualified to vote at the election for which such registration is made. A qualified elector is a male citizen who is or will be on the day of election twenty-one years of age, who has been an inhabitant of the state for one year next preceding the election, and for the last four months a resident of the county, and for the last thirty days a resident of the election district in which he may offer his vote. If a naturalized citizen, he must, in addition to the foregoing provisions, have been naturalized at least ninety days prior to the day of election.

Subdivision 2. For the purpose of registering and voting no person shall be deemed to have gained or lost a residence, by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum, or institution wholly or partly supported at public expense, or by charity; nor while confined in any public prison. Any person claiming to belong to any class of persons mentioned and referred to in this subdivision shall file with the board of inspectors at the time of registration a written statement showing where he is actually domiciled, his business or occupation, his business address, and to which class he claims to belong. Such statement shall be attached to the register, and be open for public inspection, and the fact thereof shall be noted in the register opposite the name of the person so enrolled.

**Qualifications, privileges and disabilities of voters.**—For more full and detailed provisions relating to qualification, etc., of voters, see articles entitled, "Voters," "Citizenship" and "Naturalization" in the last pages of this book.

**False registration.**—“Any person who causes his name to be placed upon any list or register of voters in more than one election district for the same election, or upon a list or register of voters, knowing that he will not be a qualified voter in the district at the election for which such list or registry is made, or aids or abets any such act, is punishable by imprisonment for not more than five years.” (§ 41a, *Penal Code, chap. 693, Laws 1892.*)

**Subdivision 3. Illiterate and disabled electors.**—If, at any meeting for the registration of electors, any person entitled to be registered and of whom personal registration is required, shall declare to the board of inspectors at the time he applies for registration, that he is unable to write by reason of illiteracy, or that he will be unable to prepare his ballot without assistance by reason of blindness, or of such degree of blindness as will prevent him, with the aid of glasses, from seeing the names printed upon the official ballot, loss of both hands, or such total inability of both hands that he cannot use either hand for ordinary purposes, or that he will be unable to enter the voting booth without assistance by reason of disease or crippled condition, the nature of which he must specify, it shall be the duty of the said board of inspectors to administer an oath to such person in the following language, namely: “You do solemnly swear (or affirm) that you will be unable to prepare your ballot without assistance, because,” and after the word “because,” continuing with a statement of the specific disease or crippled condition assigned by the person as the cause of his alleged disability, and the said inspectors and each of them shall make a note upon the register of each instance in which such oath is administered, and of the cause or reason so assigned.

[For Form of Oath, see Form No. 17, page 55.]

**Subdivision 4.** If any elector after being enrolled, shall change his place of residence within the same election district, he may appear before the board of inspectors of such district on any day of registration, or on the day of election, and state under oath that he has so changed his residence, and the board of inspectors shall thereupon make the proper correction upon the register of such district.

**Subdivision 5.** No part of a day fixed for the registration of electors shall be deemed a holiday so as to affect any meeting or proceeding of the board of inspectors for registration.

**Subdivision 6. Challenges to applicants for registration.**—Any person who applies personally to any board of inspectors for registration for any election may be challenged by any qualified elector present. If such applicant be so challenged, or if any member of the board of inspectors shall have reason to suspect that such applicant is not entitled to have his name enrolled on such register, the chairman of the board shall administer to such applicant the preliminary oath which is required by law to be administered to a challenged person offering to vote at a general election, and may thereupon examine him as to his qualifications as an elector, and may require him to state under oath his age, residence by street and number, if it have a street number, and, otherwise, to describe the locality thereof, and if he is not a householder, to state the name of the householder with whom he resides, and in like manner to describe the residence of such householder. If the applicant shall by his answers satisfy the inspectors of his right to be registered, they shall enroll his name; if not, they shall tender to him the general oath prescribed by law in the case of an elector attempting to vote under challenge. If such applicant shall make such oath, his name shall be placed upon the register. If he shall refuse to make such oath, his name shall not be placed upon the register.

**The board of registry act only ministerially** in receiving and registering names of voters, and cannot refuse to register the name of one who takes the required oaths. (*People ex rel. Stapleton v. Bell*, 119 N. Y. 175; *Matter of Hamilton*, 80 Hun, 511.)

**Inspectors cannot refuse to register the name** of one who has taken the required oaths. But court would not compel the board of registry to place upon the list the name of one who is clearly proven not to be qualified to vote. (*People ex rel. Sherwood v. Board, etc.*, 129 N. Y. 372.)

[For Forms of Preliminary and General Oaths, see Forms No. 15 and 16, page 54.]

**Subdivision 7. Record of challenges.**—If, at a meeting of the board of inspectors for registration, any elector shall, upon oath, declare that he has reason to believe that any person on the register of electors will not be qualified to vote at the election for which the registration is made, the board of inspectors shall place the words “to be challenged” opposite the name of such person, and when such person shall offer his vote at such election, the general oath as to qualifications shall

be administered to him, and if he shall refuse to take such oath he shall not be permitted to vote.

[For Form of Oath of Elector, see Form No. 18, page 55.]

**Subdivision 8. Production of naturalization papers.**— It shall be the duty of every naturalized citizen before being registered to produce to the inspectors, if any inspector shall require, his naturalization papers or a certified copy thereof for their inspection, and to make oath before them that he is the person purporting to have been naturalized by the papers so produced, unless such citizen was naturalized previous to the year eighteen hundred and sixty-seven. If, however, such naturalized citizen can not for any reason produce his naturalization papers, or a certified copy thereof, the board of inspectors, or a majority of such board may place the name of such naturalized citizen upon the register of electors upon his furnishing to such board evidence which shall satisfy such board of his right to be registered.

**Subdivision 9.** Any person knowingly taking a false oath before the board of inspectors, shall upon conviction thereof be punished as for willful and corrupt perjury.

**Subd. 8. Naturalization papers must be produced** before board of inspectors; but if not to be found, secondary evidence of their contents must be received. (*People ex rel. Noel v. Smith*, 10 Misc. 100.)

**A judgment of naturalization** by a court of competent jurisdiction can not be attacked or impeached collaterally by a board of inspectors. (*People ex rel. Christern v. Walsh*, 9 Abb. N. C. 465.)

**Inability to produce the naturalization papers** of his parents will not lose to a person the right of proving his citizenship before a board of registry by secondary evidence. The person's own oath in the absence of impeaching testimony makes out a *prima facie* case. (*People ex rel. O'Donnell v. McNally*, 59 How. 500.)

**Presenting fraudulent certificates to registry boards to procure registration.**— "Any person who knowingly and willfully presents to any board of officers, for the purpose of having himself or any other person placed upon any list or registry of voters, or to any board of officers for the purpose of enabling himself or any other person to vote at any election, any certificate of naturalization which has been allowed or issued by or procured from any judicial officer, clerk of a court, or other ministerial officer of a court, by any false statement, oath or representation, or in violation of the laws of the United States or of this state, with intent to enable any person to vote at any election, when such person is not entitled by the laws of the United States to become a citizen, or of this state, to



exercise the elective franchise, is guilty of a felony." (§ 41y, *Penal Code*, chap. 693, *Laws* 1892.)

**Procuring fraudulent certificates of naturalization in order to vote.**

— "Any person who knowingly and willfully procures from any court, judge, clerk or other officer, a certificate of naturalization, which has been allowed, issued, signed or sealed in violation of the laws of the United States or of this state, with intent to enable himself or any other person to vote at any election, when he or such person is not entitled by the laws of the United States to become a citizen or to exercise the elective franchise, is guilty of a felony." (§ 41x, *Penal Code*.)

**§ 35. Subdivision 1. Certification and custody of register.**

— At the close of each meeting for the registration of electors, for a general or other election in a city, or in an election district wholly within a village having five thousand inhabitants or more, the inspectors shall append to each book of registration their certificate, to the effect that such register as it now is comprising (here insert the number) names, is a true and correct register of the names and residences of all the electors qualified to vote at such election in such district, who have personally appeared before the board of registration, and such register so certified shall be presumptive evidence that the names and places of residence contained therein are the names and places of residence given by the persons registered respectively. At the close of each meeting for the registration of electors for a general or other election elsewhere than in a city, or in a district wholly within a village having five thousand inhabitants or more, the inspectors shall append to each book of registration a certificate to the effect that such register as it now is, comprising (here insert the number) names, is a true and correct register of all electors qualified to vote at such election in such district, who have personally applied for registration, or whose names the board was required by law to place thereon. Each such certificate shall be signed by all the inspectors, but in case one inspector required to sign such certificate shall fail for any reason so to do, he may be required by the officer with whom such register is filed to sign such register at a subsequent date. In all cases a majority of the inspectors must sign such certificate at the close of each day of registration.

**The provisions as to certifying** and preparing the registers are merely directory, and a failure on the part of the inspectors to properly observe

the law in this respect will not operate to invalidate the registers and deprive citizens of their votes. (*People ex rel. Frost v. Wilson*, 62 N. Y. 186.)

Subdivision 2. The register of electors made by the chairman of the board of inspectors shall be, and shall be known, as the public copy of registration. Such public copy shall be left in a prominent position in the place of registration from the first day of registration until election day, and shall at all reasonable times be open to public inspection and for making copies thereof. Each other inspector shall carefully preserve his register of electors and shall be responsible therefor, until the close of the canvass of the votes on election day, except as hereinafter provided for in cities of the first class. At the close of each day of registration, the inspectors shall draw a line in ink immediately below the name of the elector last entered upon each page of each such register. Upon the succeeding day of registration, they shall enter the names of electors in the alphabetical order of the first letter of the surname below the line so drawn upon the proper page after the close of the previous day of registration. Upon the close of the last day of registration, the inspectors shall again carefully compare all the books of registration, to see that they are identical as to their contents, and (after making and completing the separate list of the electors in cities of the first class, as provided in subdivision three of section thirty-two of the election law), shall certify as a board in the proper place provided therefor upon each such register that such register is a true and correct register of the persons enrolled by them in such district for the next ensuing election, and shall state the whole number of such persons so enrolled. In cities of the first class, at the close of the last day of registration, the chairman of the board of inspectors shall take from an inspector of opposite political faith from himself, the register of electors made by such inspector and shall file the same on the Monday after the last day of registration, if in the city of New York with the chief of the bureau of elections, if in the city of Brooklyn with the board of elections, and if in the city of Buffalo with the city clerk. Such register so filed, shall be a part of the record of the offices in which it is filed.

The two other inspectors of opposite political faith from each other shall each retain their respective registers of electors for use on election day. All registers of electors shall at all reasonable hours be accessible for public examinations and making copies thereof, and no charge of any kind shall be made for such examination or for any elector making a copy thereof. In cities of the first class the public copy of registration shall be used, if necessary, on election day by the inspector whose register was filed as herein provided by said chairman. Any person who shall alter, mutilate, destroy or remove from the place of registration the public copy of such registration, shall be guilty of a felony, and shall be punished upon conviction thereof by imprisonment in a state prison for not less than two nor more than five years, unless otherwise provided by law. If, in cities of the first class, the board of inspectors shall meet on the second Saturday before the election for the purpose of revising and correcting the register of electors in pursuance of an order of the supreme court, a justice thereof or a county judge, as provided in section thirty-one of the election law, the inspectors shall certify forthwith to the officer or board with whom the copy of the register is filed, the change or changes made upon such register in pursuance of such order. At any revision of registration for an election other than a general election, the quadruplicate register of electors for the last preceding general election shall be furnished to the inspectors of election by the officer or board having the custody thereof, and the inspectors shall certify to the officer or board in cities of the first class with whom the registers are filed, the changes, additions or alterations made in such registers for such election. In the cities of the first class at the close of the canvass of the votes of any election, or within twenty-four hours thereafter the two copies of the register of electors used by the inspectors and the public copy thereof shall be filed respectively with the chief of the bureau of elections in the city of New York, and with the board of elections in the city of Brooklyn, and with the city clerk of Buffalo. In all election districts other than in cities of the first class, one copy of the register used on election day by the

inspectors shall within twenty-four hours after the close of the election be filed in the office of the town or city clerk of the town or city in which such election district is, and the other copies with the county clerk. Such register of electors shall be carefully preserved for use at any election which may be ordered or held in either of such counties or cities, respectively, prior to the next ensuing general election, at which they may be required.

**One who induces or procures** the board of registry to conceal the lists and refuse the public access to them is equally guilty with the inspectors of a violation of the law. (*People v. McKane*, 143 N. Y. 455.)

Subdivision 3. At the close of registration on the fourth day in the election districts in cities and villages of five thousand inhabitants or more, and at the close of registration on the second day in other districts, the board of inspectors shall forthwith certify to the officer or board charged with the duty of furnishing ballots to such district, the total number of electors enrolled in such district. In cities of the first class the inspectors of each district shall also furnish to the police at the close of each day of registration, the total number of electors enrolled on such day, in their respective districts.

[For Form for Certificate, see Form No. 17, page 55.]

§ 36. Subdivision 1. **Delivery of blank books for registration, certificates and instructions.**—The secretary of state shall purchase wherever he deems it desirable for the best interests of the state a suitable number of blank books for register of electors, with blank certificates and brief instructions for registering the names of electors therein, in the forms respectively provided in subdivisions one and two of section thirty-two of the election law, at least four of such books for each board of inspectors in the state, and such number of extra copies thereof as in his judgment may be necessary for each county or city to replace lost or damaged registers before delivery to the inspectors. Such register of electors shall have the leaves thereof indexed with the letters of the alphabet, beginning with the letter "A" for the first leaf, and so on. He shall transmit such registers, certificates and instructions to the county clerk of each county, except New York and Kings, and to the board of police commissioners of the city of

New York, and to the board of elections of the city of Brooklyn, at least twenty days prior to the first day of registration for a general election in each year. The county clerk shall deliver such books to the town clerks of each town, and to the city clerk of each city in such county, by mail or otherwise, at least five days prior to the first day of registration, and such town clerks and city clerks, and the said boards in New York and Brooklyn, shall deliver such books to the inspectors before the hour set for registering the names of electors on the first day for registration. On the last day of registration, the board of police commissioners of the city of New York, the board of elections of the city of Brooklyn, and the city clerk of Buffalo shall furnish to each board of inspectors in their respective cities, blanks for the list of electors provided for in subdivision three of section thirty-two of the election law.

**Subdivision 2. Delivery of previous registers and poll books to inspectors.**— Each town clerk with whom the register of the last preceding general election in any election district, elsewhere than in a city or wholly within a village having five thousand inhabitants or more, shall have been filed, shall cause such register and one of the poll books to be delivered to the board of inspectors of such district at the opening of its first meeting for the registration for any election. If a new election district shall have been formed in a town since such general election, the clerk of such town shall, before the first meeting for registration thereafter in such new election district, make a certified copy of each register for such general election of each election district out of which such new district shall have been formed, and shall cause such certified copy to be delivered to the board of inspectors of such new election district at the opening of such meeting for registration. Such board, at such meeting, shall place upon the register of electors all persons whose names are upon such copies who are qualified to vote in such election district at the election for which such meeting is held, except the names of persons who are required to personally appear for registration. If a new election district shall have been formed in a city since such general election, the clerk or board with

whom the register of electors for such last preceding general election shall have been filed shall, before the meeting of the inspectors of election of such new district for registration for any other election, make a certified copy of each register of electors for such last preceding general election of each election district out of which such new election district is formed, and the inspectors of such new election district shall, at such meeting for registration for such election, place upon the register of electors the names of all persons upon such copies who are qualified to vote in such election district at the election for which such meeting is held.

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## FORMS FOR ELECTION LAW, ARTICLE 2.

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### FORM No. 15.

(See § 34, Election Law, subd. 6.)

#### **Preliminary oath on challenge for registry.**

You do swear (or affirm) that you will fully and truly answer all such questions as shall be put to you, touching your place of residence and qualifications as an elector.

#### **QUESTIONS UNDER PRELIMINARY OATH.**

1. What is your name?
2. What is your age?
3. Where do you now reside? State as precisely as you are able your residence, by street and number, if it have a street number, and otherwise describe the locality thereof.  
(If not a householder), state the name of the householder with whom you reside, and in like manner describe the residence of such householder.
4. How long have you resided in this election district?
5. What was your last place of residence before you came into this election district?
6. How long have you resided in this county?
7. How long have you resided in this state?
8. Are you a native or naturalized citizen?  
If a naturalized citizen the following questions should be asked:
9. When were you naturalized?
10. Where, and in what court, or before what officer?
11. How long have you resided in the United States?
12. Did you come into this election district for the purpose of voting at the next ensuing election?

**13. How long do you contemplate residing in this election district?**

In addition to all may be asked other questions which may tend to test the qualifications of the applicant for registry as a resident of the election district, citizenship and right to vote at such election at such polling place.

After receiving answers in full to these and such other questions as may be put, the board shall, if satisfied, enter name of applicant upon register, or if not, are to point out to the challenged person the qualification or qualifications (if any) in respect to which he shall appear to them to be deficient. If he persists in his claim to be registered and the challenge be not withdrawn, one of the board may then administer to him the following:

**FORM No. 16.****General oath.**

You do swear (or affirm) that you are twenty-one years of age, that you have been a citizen of the United States for ninety days, and an inhabitant of this state for one year next preceding this election, and for the last four months a resident of this county, and for thirty days a resident of this election district.

If any person shall refuse to take either oath so tendered, his vote shall be rejected.

(Persons who come within the prohibition prescribed in article 2 of the Constitution relative to bribery, bets and wagers are not entitled to register, or if registered entitled to vote. The question of their rights may be raised by challenge.)

**FORM No. 17.**

(See § 35, Election Law, subd. 3.)

**Certificate of total number of electors enrolled.**

To the (insert name of officer or board):

We, the undersigned, composing the board of inspectors of election district No.      of the      of      , do hereby certify that at the close of registration, the total number of electors enrolled in such district was

Dated at      this      day of      , 189 .

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Board of Inspectors.*

(The above certificate to be forthwith sent to the officer or board charged with the duty of providing ballots for this election district.)

**FORM No. 17a.**

**Certificate for police of number of electors enrolled in New York, Brooklyn and Buffalo only.**

**NOTICE.**—A certificate in this form must be properly filled out and signed by the inspectors at the close of each day of registration, and delivered to the police.

[New York, Brooklyn, Buffalo], N. Y., *October*, 1896.

Election district \_\_\_\_\_ ward.

We hereby certify that the total number of electors enrolled upon the register of electors of this election district on this, the \_\_\_\_\_ day of registration for the general election to be held November the third, 1896, was \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Board of Inspectors.*

**FORM No. 17b.**

**Certificate of registration in New York, Brooklyn and Buffalo only.**

**NOTE.**—One of these certificates must be filled out, signed and delivered by the chairman of the board of inspectors to each person enrolled by the board upon the register of electors for the district.

[New York, Brooklyn, Buffalo], N. Y., *October*, 1896.

This is to certify that the board of inspectors of the \_\_\_\_\_ election district of the \_\_\_\_\_ ward of the city of \_\_\_\_\_ has placed upon the register of electors of the above-named district on the date above specified, the following name and address:

Name of elector, \_\_\_\_\_,

Address of elector, \_\_\_\_\_.

The Board of Inspectors,

by \_\_\_\_\_,

*Chairman.*

**NOTICE TO ELECTORS.**—This certificate must be retained by the person to whom it is issued, as evidence of the fact that the name and address given by him were entered upon the register of electors.

**FORM No. 18.**

(See § 34, Election Law, subd. 4.)

**Oath to be administered to illiterate disabled voters.**

You do solemnly swear (or affirm) that you will be unable to prepare your ballots without assistance, because \_\_\_\_\_ (Continue with statement of specific disease, etc., assigned as cause of alleged disability).

**FORM No. 19.**

(See § 34, Election Law, subd. 7.)

**Form for oath for record of challenge.**

You do swear (or affirm) that you have reason to believe that \_\_\_\_\_, whose name appears on the register of electors in this election district, will not be qualified to vote at the election for which such register of electors is made.



**ARTICLE III.****Primaries, Conventions and Nominations**

- SECTION** 50. Definitions of primary and convention.
51. Notice of primary.
  52. Organization and conduct of primaries..
  53. Qualifications of voters at primaries.
  54. Duties of chairman of primary.
  55. Watchers and canvass of votes at primaries.
  56. Party nominations.
  57. Independent nominations.
  58. Places of filing certificates of nominations.
  59. Times of filing certificates of nominations.
  60. Certification of nominations by secretary of state.
  61. Publication of nominations.
  62. Lists for town clerks and aldermen.
  63. Posting town and village nominations.
  64. Declination of nomination.
  65. Objections to certificates of nominations.
  66. Filling vacancies in nominations.

§ 50. **Definitions of primary and convention.**—As used in this article, a convention is an assemblage of delegates representing a political party or independent body, duly convened for the purpose of nominating candidates for office, electing delegates to conventions, electing officers for party organizations, or for the transaction of any other business relating to the affairs or conduct of the party or independent body; and a primary is any other assemblage of voters of a political party or independent body duly convened for any such purpose.

**Misdemeanors at political caucuses and conventions.**—“Any person who,

“1. Votes or attempts to vote at a political caucus or convention without being entitled to do so; or,

“2. By bribery, menace or other corrupt means, directly or indirectly, attempts to influence the vote of any person entitled to vote at such caucus or convention, or obstructs such person in voting, or prevents him from voting thereat; or,

“3. Fraudulently or wrongfully does any act tending to affect the result of an election at such caucus or convention; or,

“4. Being an officer, teller or canvasser thereof, willfully omits, refuses or neglects to do any act required by the election law, or refuses to permit any person to do any act authorized thereby, or makes or attempts to make

any false canvass of the ballots cast at such caucus or convention or statement of the result of a canvass of the ballots cast thereat ; or,

" 5. Induces or attempts to induce any officer, teller or canvasser of such caucus or convention to do any act in violation of his duty ; or,

" 6. Directly or indirectly, by himself or through any other person, pays, or offers to pay money or other valuable thing to any person to induce any voter or voters to vote or refrain from voting at such caucus or convention for any particular person or persons ; or,

" 7. Directly or indirectly, by himself or through any other person, receives money or other valuable thing before, at or after such caucus or convention for voting or refraining from voting for or against any person at such caucus or convention, is guilty of a misdemeanor, punishable by imprisonment for not more than one year." (§ 41, *Penal Code*.)

**§ 51. Notice of primary.**—No primary shall be held in a city or village having a population of over five thousand, as shown by the last state or federal enumeration, unless at least two days' notice thereof shall be published in a daily newspaper in such city or village, of the same politics with the political party giving the notice at least twice ; but if no such newspaper is published in the same city or village where such primary is to be held, such notice shall be published in a weekly newspaper, if any, in such city or village of the same politics of the political party giving the notice before such primary is held. But if no such daily or weekly newspaper be so published in such city or village, such notice shall be posted in at least six public places in such city or village at least two days prior to the holding of such primary. Such primary shall be opened at such hour between nine o'clock in the forenoon and nine o'clock in the afternoon, as may be prescribed by the political party or independent body holding the same. Elsewhere than in such city or village, every primary shall be called and held pursuant to notice given according to the regulations and usages of the political party or independent body holding it.

**Where the only newspaper published in a city or village is opposed** to one of two factions of a party it is sufficient compliance with the statute for that faction to post the notices of primaries. (*Matter of Mitchell*, 81 Hun, 401.)

**§ 52. Organization and conduct of primaries.**—Every primary held by any political party or independent body for the purpose of choosing candidates for office, or the election of

delegates to conventions, or for the purpose of electing officers to any political party or independent body, shall be presided over and conducted by officers to be selected in the manner prescribed by the rules or regulations of the political party or independent body holding such primary. If the rules and regulations of the political party or independent body calling it so require, or if it shall be, by a vote of the electors present, so resolved, or, if it be in a city or village having a population of over five thousand according to the last preceding federal or state enumeration, and five qualified electors of the district where it is held, belonging to the political party calling it, shall serve upon the secretary or chairman of the general committee of the party, or of its organization in such city or village, or upon the chairman of the district committee, a written demand, stating that they so require it, the following additional requirements, or such of them as may be specified in such demand, shall be complied with :

1. The chairman and other officers shall take the constitutional oath of office.
2. Candidates and delegates and officers of the organization or committee shall be chosen by ballot.
3. The meeting shall be held open not less than one hour for voting thereat.
4. The tellers shall keep a poll list of the name and residence of each person voting, and assist the secretary in the canvass of the votes.
5. An elector shall be appointed watcher for each candidate or set of candidates or delegates requesting the same.
6. The chairman shall publicly announce the number of votes cast for each candidate, and the result of the canvass at the completion thereof, and shall, if the primary be held in a city or village having a population of more than five thousand, as shown by the last preceding federal or state enumeration, file a statement of such results and the oath taken at such primary, and the poll list kept thereat in the office of the county clerk, if located in such city or village, and otherwise, in the office of the city or village clerk, and the papers so filed shall be public records and open to inspection and examination by any elector of the state.

**A meeting or caucus may properly adjourn** to another day if for any good and sufficient reason it is unable to perform and complete its duties on the day it was called for. (*Matter of Broat*, 6 Misc. Rep. 445.)

**That political parties must provide rules and regulations** for their conduct or management is recognized by the Election Law and is a necessity since under our system of government the affairs of the state are conducted through the medium of such parties. (*Matter of Redmond*, 5 Misc. Rep. 369.)

**Recent legislation has been such as to bring within the law the action of all party caucuses**, conventions and committees. It has at last become recognized that, under our form of government, the primaries, caucuses and conventions of parties should be surrounded by all the safeguards and be conducted with the same conformity to law that our regular elections should be. (*Matter of Broat*, 6 Misc. Rep. 445.)

**Where there are no rules governing the action of a town committee**, it must be held to the same rules that at common law govern any board or body of officers; that is, the act of the majority is the act of the committee, and such act must be performed in session, when all are present or have had due notice to be. (*Matter of Broat*, 6 Misc. Rep. 445.)

**Minority to acquiesce.** When the majority of those members of a convention whose seats are uncontested decide as to who of two or more contestants should be admitted to the convention, party loyalty and obedience to party usage require the minority to acquiesce. (*Matter of Broat*, 6 Misc. Rep. 445.)

§ 53. **Qualifications of voters at primaries.**—No person shall be entitled to vote at any primary unless he may be qualified to vote for the officers to be nominated thereat on the day of election. They shall possess such other qualifications as shall be authorized by the regulations and usages of the political party or independent body holding the same.

§ 54. **Duties of chairman of primary.**—The chairman may administer any oath required to be administered at any primary. He shall decide all questions that arise relating to the qualifications of voters when the voter is challenged by an elector and shall reject such vote, unless the person offering the vote is willing to be, and shall be sworn, that he will truly answer all questions put to him touching his qualification as such voter, and shall state under oath that he is qualified to vote at such primary.

**When the chairman refuses to perform the duties of a chairman** or arrogates to himself the power lodged in the meeting or caucus itself, the caucus or meeting have power or authority to elect another chairman in his place. (*Matter of Broat*, 6 Misc. Rep. 445.)

**It is the duty of the chairman to put motions properly made to vote.** He has no right to declare a motion or resolution carried without a vote being taken, unless by unanimous acquiescence. (*Matter of Broat*, 6 Misc. Rep. 445.)

**§ 55. Watchers and canvass of votes at primary.**—The ballot box used at any primary shall be examined by the secretary and by the tellers, if any, in the presence of the watchers, if any, before any ballots are received to see that there are no ballots therein. Such watchers are entitled to be present from the commencement of the primary to the close of the canvass, and the signing of the certificates thereof. At the close of the canvass of the ballots cast for each candidate, the secretary shall publicly announce the vote and the result of the canvass.

**§ 56. Party nominations; choice of emblems for ballot.**  
Nominations made as provided by this section shall be known as party nominations, and the certificate by which such nominations are certified shall be known as a party certificate of nomination. Party nominations of candidates for public office can only be made by a convention, or by a duly authorized committee of such convention of a political party which at the last preceding general election before the holding of such convention at which a governor was elected, cast ten thousand votes in the state for such officers: provided, however, that party nominations of candidates for public office to be voted for only in a town, or ward of a city, or a village or subdivision thereof, can only be made by a convention or primary or by a duly authorized committee of such convention or primary of a political party, which, at the last preceding general election before the holding of such convention or primary at which a governor was elected cast ten thousand votes in the state for such officer. The party certificate whereby such party nominations are certified shall contain the title of the office for which each person is nominated, the name and residence of each such person, and, if in a city, the street number of the residence of each such candidate and his place of business, if any. It shall also designate, in not more than one word, the name of the political party which the convention, primary, or committee making such nomina-

tion represents. It shall be signed by the presiding officer and a secretary of such convention or primary, or, if made by a committee, by a majority of the members thereof, who shall add to their signature their respective places of residence, and shall make oath before an officer qualified to take affidavits that the affiants were such officers of such convention or primary, or that they are members and constitute a majority of such committee, and that such certificates and the statements therein contained are true to the best of their information and belief. A certificate that such oath has been administered shall be made and signed by the officer before whom the same was taken, and attached to such certificate of nomination. When the nomination is made by a committee, the certificate of nomination shall also contain a copy of the resolution passed at the convention or primary which authorized such committee to make such nomination. A certificate of nomination filed pursuant to this section may upon its face appoint a committee of one or more persons for the purposes specified in section sixty-six of this act. When a party nomination is made by a state convention of a candidate or candidates to be voted for by the electors of the entire state, it shall be the duty of such convention to select some simple device or emblem to designate and distinguish the candidates of the political party making such nominations or nomination. Such device or emblem shall be shown by a representation thereof upon a certificate signed and duly executed by the presiding officer and a secretary of said convention, which certificate shall be filed with the secretary of state, and such device or emblem, when so filed, shall in no case be used by any other party or independent body. When any independent body shall make a like nomination, as provided by the fifty-seventh section of this act, it shall be the duty of the persons who shall sign and execute the certificate of nomination of such candidate or candidates, to likewise select some simple device or emblem to designate and distinguish the candidate of such independent body making such nomination, and such device or emblem shall be shown by the representation thereof upon a certificate signed and duly executed by the proper parties authorized for that purpose. The device or emblem so

chosen, when filed as aforesaid, shall be used to designate and distinguish all the candidates of the same political party or independent body nominated by such political party or independent body, or duly authorized committee, or primary thereof, in all districts of the state. The device or emblem chosen, as aforesaid, may be the representation of a star, an animal, an anchor or any other appropriate symbol, but neither the coat of arms nor seal of any state, nor of the United States, the national flag, nor any religious emblem or symbol, nor the portrait of any person, nor a representation of a coin or of the currency of the United States shall be chosen as such distinguishing device or emblem. If the certificate of nomination of two or more different political parties or independent bodies shall designate the same, or substantially the same, device or emblem or party name, the officer with whom the certificates of nominations are filed shall decide which of said political parties or independent bodies is entitled to the use of such device, or emblem, or party name, being governed as far as may be, in his decision by priority of designation in the case of the device or emblem, and of use in the case of the party name. If the other nominating body shall present no other device or party name after such decision, such officer shall himself select for such other nominating body another device or party name, so that no two different parties shall be designated by the same device or party name. If there be a division within a party, and two or more factions claim the same, or substantially the same device or name, the officer aforesaid shall decide between such conflicting claims, giving preference of device and name to the convention or primary, or committee thereof, recognized by the regularly constituted party authorities; and if the other faction or factions shall present no other device or party name, the said officer shall select a different device and party name for each such other faction, which shall be used upon the ballots to distinguish its ticket. If two or more conventions are called by different authorities, each claiming to represent the same party for that purpose, the said officer shall select a suitable device and party name to distinguish the candidates of one faction from those of the other, and the ballots shall be printed accordingly. Any

questions arising with reference to any device, or to the political party or other name designated in any certificate of nomination filed pursuant to the provisions of this section, or of section fifty-seven of this article, or with reference to the construction, validity or legality of any such certificate, shall be determined in the first instance by the officer with whom such certificate of nomination is filed. Such decision shall be in writing, and a copy thereof shall be sent forthwith by mail by such officer to the committee, if any, named upon the face of such certificate, and also to each candidate nominated by any certificate of nomination affected by such decision. The supreme court, or any justice thereof, within the judicial district, or any county judge within his county, shall have summary jurisdiction upon complaint of any citizen, to review the determination and acts of such officer, and to make such order in the premises as justice may require, but such order must be made on or before the last day fixed for filing certificates of nominations to fill vacancies with such officer as provided in subdivision one of section sixty-six of this article. Such a complaint shall be heard upon such notice to such officer as the said court or justice or judge thereof shall direct. If any certificate of nomination of candidates to be voted for by the electors of the entire state, filed with the secretary of state, pursuant to the provisions of this act, shall omit to designate a device or emblem to distinguish the candidates of the political party or independent body making such nomination, it shall be the duty of the secretary of state to select a device or emblem for that purpose, and such device or emblem so chosen shall be used to distinguish all candidates of that party or independent body throughout the state, whether such candidates are nominated for state, or for local offices; and if any certificate of nomination of candidates to be filled by the electors of a district less than the entire state shall be filed with the secretary of state, or with any other public officer pursuant to this article, by a political party or independent body which has made no nomination of candidates for offices to be filled by the electors of the entire state, and such certificate of nomination shall omit to designate a device or emblem to distinguish the candidates nominated in such



certificate, it shall be the duty of the secretary of state or other public officer with whom such certificate of nomination is filed, to select a device or emblem to represent the candidates named in such certificate of nomination.

[For Forms for Party Certificates of Nominations, see Forms Nos. 20-24, pages 76-80.]

**Misconduct in relation to certificates of nomination.** "A person who,

"1. Falsely makes or makes oath to, or fraudulently defaces or destroys, a certificate of nomination or any part thereof; or

"2. Files or receives for filing a certificate of nomination knowing that any part thereof was falsely made; or

"3. Suppresses a certificate of nomination which has been duly filed, or any part thereof; or \* \* \*

"Is punishable by imprisonment for not less than one nor more than five years." (§ 41g, *Penal Code*.)

**A party nomination regularly made** by a convention remains in force, and the convention has no power to make another. (*People ex rel. Simpson v. Police Comrs.*, 10 Misc. Rep. 98.)

**When a convention fails to nominate** for a certain office, electors are not, nevertheless, deprived of their right to vote for such office. (*People ex rel. Goring v. President, etc.*, 144 N. Y. 616; *Election Law*, §§ 81, 105.)

**No other convention or committee than the one nominating has power to review** the nominations and to say which of two rival factions presenting delegates from primaries is the regular one. (*Matter of Cowie*, 33 N. Y. St. Repr. 710.)

**One claiming a regular nomination** at the hands of a convention which has been declared to be irregular by the supreme authority within the party in the state cannot be regarded as a regular nominee of his party, and is consequently not entitled to have his name printed upon the official ballot. What constitutes regularity of nomination depends upon the usages of the party itself and not upon any rules or regulations which may seem just and proper to courts or judges. (*Matter of Redmond*, 5 Misc. Rep. 369.)

**No matter what a body of voters may have called themselves**, if a ticket is nominated and filed according to law the clerk should print the ticket for the popular vote, and a mandamus will lie compelling him so to do in case of either his neglect or his refusal to act. (*People ex rel. Wallace v. Ryan*, 60 Hun, 398.)

**Any party interested may apply to the court to investigate** and decide between the contending candidates, but a member of a county committee, not one of the candidates nominated, is not an interested person. (*Matter of Woodworth*, 64 Hun, 522.)

**In making up the various official ballots**, the county clerk takes into consideration the nominations for state and district offices which have been certified to the secretary of state and the nominations for local offices which appear upon certificates filed in his own office. In combining the names to go upon a particular official ballot he is to select, so far as party

nominations are concerned, the candidates nominated by one and the same party and when there are two sets of nominations from the same party he cannot refuse to place one of these sets on a ballot with the state nominees simply because the faction which made the local nominations was not recognized by the last state convention.

His duty is to inquire and determine as a matter of fact whether that faction is really a part of such party or not. If it is, its local candidates should be named on a ballot with the state ticket. If it is not, they should have a ballot by themselves with blanks so far as relates to state offices. (*Matter of Mitchell*, 81 Hun, 401; *Matter of Wheeler*, 10 Misc. Rep. 55.)

**Courts will not interfere in contests between factions of a political party** unless there has been no adjudication of the question of regularity by some division of the party which is conceded to be superior in point of authority to the one in which the contention arose. (*Matter of Pollard*, 55 N. Y. St. Repr. 155.)

**In proceedings to determine which of two certificates of nomination is the regular one**, the decisions of party conventions, committees or caucuses are not binding and have no weight with the court. One of the very purposes of the law is to determine whether the action of such bodies is in conformity with the laws of the state. (*Matter of Broat*, 6 Misc. Rep. 445.)

**An appeal may be taken to the General Term** from an order made at Special Term reviewing the determination and acts of the officer with whom a certificate of nomination is filed in relation thereto, provided the appeal can be heard and determined in due season. Such a matter is a special proceeding as defined in section 1356 of the Code of Civil Procedure. (*Matter of Mitchell*, 81 Hun, 401.)

**A political convention is a law unto itself**, but, where the duty is cast upon courts and judges of determining the regularity and fairness of political methods, those methods must be subjected to the same tests as would those of any other body of men whose good faith is questioned, and no court or judge would be justified in sustaining them when found to be inconsistent with that degree of sound morals which must characterize an ordinary affair of business, even though they be recognized and approved by senatorial and state conventions of the same political organizations. (*Matter of Woodworth*, 16 N. Y. Supp. 147.)

**§ 57. Independent nominations.**—Nominations made as provided by this section shall be known as independent nominations, and the certificate whereby such nominations are made shall be known as an independent certificate of nomination. Independent nominations of candidates for public office to be voted for by all the electors of the state can only be made by six thousand or more voters of the state; provided, however, that in making up such number at least fifty electors in each county of the state (the counties of Fulton

and Hamilton to be considered as one county) shall subscribe to the certificate provided for in this section. Independent nominations of candidates for municipal offices to be voted for by all the electors of a municipality can only be made if in a city of the first class by two thousand electors of such city; if in cities of the second class by one thousand electors of such city, and in other cities by five hundred electors thereof. Independent nominations of candidates for a county office in a county in which there is a city of the first class can only be made by two thousand electors of such county. Independent nominations of candidates for public office other than municipal offices to be voted for in a district less than the whole state, but greater than a town or ward of a city, can only be made by one thousand electors or more of the district, except that five hundred voters or more of an assembly or school commissioner district, may make such nomination for member of assembly or school commissioner to be voted for in such district. Independent nominations of candidates for public office to be voted for only by the electors of a town, or a ward of a city, or a village, can only be made by one hundred electors or more of such town, ward or village, except that when such town, ward or village constitutes an assembly or school commissioner district, five hundred or more electors shall be required as above to make such nomination for member of assembly or school commissioner. Independent nominations shall be made by a certificate subscribed by such electors, each of whom shall add to his signature his place of residence, and make oath that he is an elector and has truly stated his residence. The making of the said oath shall be proved by the certificate of the notary or other officer before whom the said oath is taken, and it shall be unnecessary for an elector who has subscribed a certificate of nomination as herein provided, to sign any affidavit as to the matters to which he has made oath as aforesaid. The certificate shall contain the titles of the offices to be filled, the name and residence of each candidate nominated, and if in a city, the street number of such residence and his place of business, if any; and shall designate in not more than five words the political or other name

which the signers shall select, which name shall not include the name of any organized political party. All independent certificates of nomination shall, upon their face, designate and select a device or emblem to represent and distinguish the candidate of the independent body making such nominations, as provided by the fifty-sixth section of this act. The certificate may designate upon its face, one or more persons as a committee to represent the signers thereof, for the purposes specified by section sixty-six of this act. The signatures to the certificate of nomination need not all be appended to one paper. No person shall join in nominating more candidates for any one office than there are persons to be elected thereto, and no certificate shall contain the names of more candidates for any office than there are persons to be elected to such office.

[For Form for Independent Certificate of Nomination, see Form No. 25, page 81.]

**§ 58. Places of filing certificates of nomination.**—Certificates of nomination of candidates for office to be filled by the electors of the entire state, or of any division or district greater than a county, shall be filed with the secretary of state, except that each certificate of nomination of a candidate for member of assembly for the assembly district composing the counties of Fulton and Hamilton, shall be filed in the office of the county clerk of Fulton county, and a copy thereof certified by the county clerk of Fulton county, shall be filed in the office of the county clerk of Hamilton county, so long as the said counties constitute one assembly district. Certificates of nomination of candidates for offices to be filled only by the electors or a portion of the electors of the city of New York or Brooklyn, shall be filed with the board of police commissioners of the city of New York, or the board of elections of the city of Brooklyn respectively. Certificates of nomination of candidates for offices of any other city, or for officers of a village or town to be elected at a different time from a general election, shall be filed with the clerk of such city, village or town, respectively. All other certificates of nomination shall be filed with the clerk of the county in which the candidates so nominated are to be voted for. All certificates and corrected certificates of nomination, all objections to such certificates and all declination of nominations are hereby declared

to be public records; and it shall be the duty of every officer or board to exhibit without delay, every such paper or papers to any person who shall request to see the same. It shall also be the duty of each such officer or board to keep a book which shall be open to public inspection, in which shall be correctly recorded the names of all candidates nominated by certificates filed in the office of such officer or board, or certified thereto, the title of the office for which any such nomination is made, the political or other name and emblem of the political party or independent body making such nomination; and in which shall also be stated declinations of nominations or objections to nominations, and the time of filing each of the said papers.

**§ 59. The times of filing certificates of nomination.**—The different certificates of nomination shall be filed within the following periods before the election for which the nominations are made, to wit: Those required to be filed with the secretary of state, if party nominations, at least thirty and not more than forty days; if independent nominations, at least twenty-five and not more than forty days; those required to be filed with a county clerk, or the board of police commissioners of the city of New York, or the board of elections of the city of Brooklyn, or with the city clerk of any other city, if party nominations, at least twenty-five and not more than thirty-five days; if independent nominations, at least twenty, and not more than thirty-five days; those required to be filed with a town or village clerk, if party nominations, at least fifteen and not more than twenty days; if independent nominations, at least ten and not more than twenty days. In case of a special election ordered by the governor under the provisions of section four of the election law, the certificates of nominations for the office or offices to be filled at such special election shall be filed with the proper officer or board not less than fifteen days before such special election.

**§ 60. Certification of nominations by secretary of state.**—The secretary of state shall, fourteen days before the election, certify to the county clerk of each county, except New York and Kings, and to the board of police commissioners of the city of New York, and to the board of elections of the city of

Brooklyn, the name, residence and place of business, if any, of each candidate nominated in any certificate so filed for whom the electors of any such county or city, respectively, may vote, the title of the office for which he is nominated, the party or other political name specified in such certificate, and the emblem or device chosen to represent and distinguish the candidates of the political party or independent body making such nominations.

§ 61. **Publication of nominations.**— At least six days before an election to fill any public office the county clerk of each county, except New York and Kings, the board of police commissioners of the city of New York, shall cause to be published in not less than two or more than four newspapers within such county or city respectively, a list of all nominations of candidates for offices to be filled at such election, certified to such clerk or board by the secretary of state, or filed in the office of such clerk or board, and in the city of Brooklyn the board of elections of the city of Brooklyn shall cause such publication to be made in the newspapers designated as corporation newspapers of said city. Such publication shall contain the name and residence, and if in a city, the street number of the residence and place of business, if any, and the party or other designation of each candidate, and a fac simile of the emblems or devices selected and designated as prescribed by the fifty-sixth and fifty-seventh sections of this act, to represent and distinguish the candidates of the several political parties or independent bodies. The city clerk of each city, except New York and Brooklyn, and the boards named in such cities, shall at least six days before an election of city officers thereof, held at a different time from a general election, cause like publication to be made as to candidates for offices to be filled at such city election in at least two newspapers published in such city. One of such publications shall be made in a newspaper which advocates the principles of the political party that, at the last preceding election for governor, cast the largest number of votes in the state for such office; and another of such publications shall be made in a newspaper which advocates the principles of the political party that at the last preceding election for

governor cast the next largest number of votes in the state for such office. The clerk or board, in selecting the papers for such publications, shall select those which, according to the best information he can obtain, have a large circulation within such county or city. In making additional publications, the clerk or board shall keep in view the object of giving information, so far as possible, to the voters of all political parties; and in no event shall additional publications be made in two newspapers representing the same political party. The clerk or board shall make such publication twice in each newspaper so selected in a county or city in which daily newspapers are published; but if there be no daily newspaper published within the county, one publication only shall be made in each of such newspapers. Should the county clerk find it impracticable to make the publication six days before election day in counties where no daily newspaper is printed, he shall make the same at the earliest possible day thereafter, and before the election.

[For Form for Lists of Nominations, see Form No. 26, page 82.]

**The designation of newspapers** to publish lists of nominations is reviewable by a writ of *certiorari*, and such proceeding may be instituted by the proprietor of a newspaper which has not been designated. The one or ones making such designation cannot act arbitrarily, but must show good faith in carefully considering all evidence presented as to circulation. (*People ex rel. P. P. Co. v. Martin et al.*, 142 N. Y. 228.)

It should be noted that the present law does not require that the papers selected shall have the *largest*, but only a *large* circulation within the city or county.

**§ 62. Lists for town clerks and aldermen.**—The county clerk of each county, except New York and Kings, shall at least six days before election day, send to the town clerk of each town, and to an alderman of each ward in any city in the county, at least five and not more than ten printed lists for each election district in such town or ward, containing the name and residence, and if in a city, the street number of residence, and place of business, if any, and the party or other designation, and also a fac simile of the emblem or device of each political party or independent body nominating candidates to be voted for by the electors of the respective towns and wards. Such lists shall, at least three days before the day of election be conspicuously posted by such town clerk or

alderman in one or more public places in each election district of such town or ward, one of which shall be at each polling place.

[For Form for Lists, see Form No. 28, page 83.]

§ 63. **Posting town and village nominations.**— Each town and village clerk shall cause at least ten copies of a like list of all nominations to office filed with him to be conspicuously posted in ten public places in the town or village, at least one day before the town meeting or village election, one of which copies shall be so posted at each polling place of such town meeting or village election.

[For Form for Poster, see Form No. 27, page 82.]

§ 64. **Declination of nomination.**— The name of a person nominated for any office shall not be printed on the official ballot if he notifies the officer with whom the original certificate of his nomination is filed, in a writing signed by him and duly acknowledged, that he declines the nomination, or if nominated by more than one political party, or independent body, the name of a person so nominated shall not be printed on the ticket of a party or independent body whose nomination he shall in like manner decline. If the declination be of a party nomination filed with the secretary of state, such notification shall be given at least twenty-five days, and if an independent nomination, at least twenty days before the election. If the declination be of a party nomination filed with a county clerk or the board of police commissioners of the city of New York, or the board of elections of the city of Brooklyn, or with the city clerk of any other city, such notification shall be given at least twenty days, and if of an independent nomination, at least eighteen days before the election. If the declination be of a party nomination filed with a town or village clerk, such notification shall be given at least ten days, and if of an independent nomination, at least seven days before the election. The officer to whom such notification is given, shall forthwith inform by mail or otherwise, the committee, if any, appointed on the face of such certificate as permitted by sections fifty-six and fifty-seven of this act, and otherwise one or more persons whose names are attached to such certificate, that the nomination conferred by such certificate has been declined, and if such declination be filed with the secretary of state, such officer shall also give immediate notice by mail or otherwise, that such nomination has been



declined, to the several county clerks or other officers authorized by law to prepare official ballots for election districts affected by such declination.

[For Form for Declination, see Form No. 29, page 83.]

**§ 65. Objections to certificates of nomination.**—A written objection to any certificate of nomination may be filed with the officer with whom the original certificate of nomination is filed within three days after the filing of such certificate. If such objection be filed, notice thereof shall be given forthwith by mail to the committee, if any, appointed on the face of such certificate for the purposes specified in section sixty-six of this act, and also to each candidate placed in nomination by such certificate. The questions raised by such written objection shall be heard and determined as prescribed in section fifty-six of this act.

**The validity of the objections to a certificate of nomination** is primarily heard, investigated and decided by the officer with whom such certificate is filed, and unless an order be made by a court of competent jurisdiction his decision is final. (*Matter of Woodworth*, 64 Hun, 522.)

**When no objection to a certificate of nomination** is filed within the time prescribed, the officer with whom the certificate is filed is bound to recognize the certificate as valid, and the persons named therein as the regular nominees. (*Matter of Cowie*, 33 N. Y. St. Repr. 710.)

**§ 66. Filling vacancies in nominations, and correction of certificates.**—Subdivision 1. If a nomination is duly declined, or a candidate regularly nominated dies before election day, or is found to be disqualified to hold the office for which he is nominated, or if any certificate of nomination is found to be defective but not wholly void, the committee appointed on the face of such certificate of nomination, as permitted by sections fifty-six and fifty-seven of this act, may make a new nomination to fill the vacancy so created, or may supply such defect, as the case may be, by making and filing with the proper officer a certificate setting forth the cause of the vacancy or the nature of the defect, the name of the new candidate, the title of the office for which he is nominated, the name of the original candidate, the name of the political party or other nominating body which was inscribed on the original certificate, and such further information as is required to be given by an original certificate of nomination; except that where a certificate is filed pursuant to this section

to fill a vacancy it shall not be lawful to select a new emblem or device, but the emblem or device chosen to represent and distinguish the candidate nominated by the original certificate shall be used to represent and distinguish the candidate nominated, as provided by this section. The certificate so made shall be subscribed and acknowledged by a majority of the members of the committee, and the members of the committee subscribing the same shall make oath before the officer or officers before whom they shall severally acknowledge the execution of the said certificate that the matters therein stated are true to the best of their information and belief. Except in a case as provided for in subdivision two of this section, the said certificate shall be filed in the office in which the original certificate was filed, at least six days before the election, if filed in the office of a town or village clerk; at least fifteen days before the election if filed with the county clerk or the board of police commissioners of the city of New York, or the board of elections of the city of Brooklyn, or the city clerk of any other city; and at least fifteen days if filed with the secretary of state, and upon being so filed shall have the same force and effect as an original certificate of nomination. When such certificate is filed with the secretary of state, he shall, in certifying the nomination to the various county clerks and other officers, insert the name of the person who has been nominated as prescribed by this section, instead of that of the candidate nominated by the original certificate, or, if he has already sent forward his certificate, he shall forthwith certify to the proper clerks and other officers the name of the person nominated as prescribed by this section, and such other facts as are required to be stated in a certificate filed pursuant to this section. When no nomination shall have been originally made by a political party, or by an independent body for an office, or where a vacancy shall exist, it shall not be lawful for any committee of such party or independent body authorized to make nominations, or to fill vacancies, to nominate, or substitute the name of, a candidate of another party, or independent body for such office; it being the intention of this act that when a candidate of one party is nominated and placed on the ticket of another party

or independent body, such nomination must be made at the time and in the manner provided for making original nominations by such party or independent body.

Subdivision 2. In case of the death of a candidate after the official ballots have been printed, and before election day, the vacancy may be filled by filing the proper certificate of nomination of a candidate to fill such vacancy, with the officer or board with whom the original certificate was filed, and it then shall be the duty of the officer or board furnishing the official ballots to prepare and furnish to the inspectors of election in the election districts affected adhesive pasters containing the name of the candidate nominated to fill the vacancy, and the title of the office for which he was nominated. The pasters shall be of plain white paper, printed in plain black ink and in the same kind of type used in printing the titles of the offices and the names of the candidates upon the official ballots, and shall be of a size as large and no larger than the space occupied upon the official ballot by the title of the office and the name of the candidate whose place the candidate named upon the paster has been nominated. If the candidate be one of a group of candidates, such official paster shall contain the name of the candidate but not the title of the office. Whenever such pasters are provided, the officer or board furnishing them shall certify to the inspectors of election in the election districts affected by the vacancy, the name of the original candidate, the name of the new nominee, the title of the office for which the nomination is made, and the name of the political party or independent body making the nomination, and shall state the number of pasters furnished, which number shall be equal to the number of official ballots furnished for such district. Upon the delivery of said pasters, the inspectors of election shall sign a receipt for the same, which receipt shall be retained by the officer or board furnishing the pasters, and shall be part of the record of his or their office. The inspectors shall deliver the pasters to the ballot clerks, who are required to affix one of such pasters in the proper place and in a proper manner upon each official ballot before said ballot shall be delivered to a voter. When so affixed to the official ballot, the pasters shall be considered as

being part of the official ballot. The ballot clerks shall include in their statement of ballots a statement showing the number of pasters received by them, the number of pasters affixed to official ballots and the number of unused pasters returned by them, the unused pasters to be enclosed in the package of ballots not delivered to voters. The use of any paster upon the official ballot otherwise than as herein provided is hereby declared a felony, punishable by imprisonment in a state prison for not less than one nor more than five years.

[For Form for Certificate, see Form No. 30, page 84.]

#### **MISCELLANEOUS PROVISIONS AFFECTING CANDIDATES.**

**Candidate's statement of election expenses.**—"Every candidate who is voted for at any public election held within this state shall, within ten days after such election, file as hereinafter provided an itemized statement showing in detail all the moneys contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Such statement shall give the names of the various persons who received such moneys, the specific nature of each item, and the purpose for which it was expended or contributed. There shall be attached to such statement an affidavit subscribed and sworn by such candidate, setting forth in substance that the statement thus made is in all respects true, and that the same is a full and detailed statement of all moneys so contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Candidates for offices to be filled by the electors of the entire state, or any division or district thereof greater than a county, shall file their statements in the office of the secretary of state. The candidates for town, village and city offices, excepting in the city of New York, shall file their statements in the office of the town, village or city clerk respectively, and in the cities wherein there is no city clerk, with the clerk of the common council of the city wherein the election occurs. Candidates for all other offices, including all officers in the city and county of New York, shall file their statements in the office of the clerk of the county wherein the election occurs. Any candidate for office who refuses or neglects to file a statement as prescribed in this section shall be guilty of a misdemeanor, and shall also forfeit his office." (§ 41x, *Penal Code*.)

[For Form for Statement of Expenses, see Form No. 31, page 85.]

**Soliciting candidates to purchase tickets, etc.**—"Any person who solicits from a candidate for an elective office money or other property, or who seeks to induce such candidate who has been placed in nomination to purchase any ticket, card or other evidence of admission to any ball, picnic, fair or entertainment of any kind, is guilty of a misdemeanor; but this section shall not apply to a request for a contribution of money by an authorized representative of the political party, organization or association to which such candidate belongs." (§ 41x, *Penal Code*. *Added by chap. 155, Laws 1895, to take effect Sept. 1, 1895.*)

## FORMS FOR ELECTION LAW, ARTICLE 3.

## FORM No. 20.

(For place and time of filing this certificate, see pages 67, 68.)

**Party certificate of nomination by a state convention.***To the Secretary of State:*

We certify that at a convention of delegates representing the party, held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_, a political party which, at the last preceding general election, at which a governor was elected, cast ten thousand votes in the state for such officer, the following named persons were placed in nomination for offices to be filled at the next ensuing general election:

Title of office to be filled.	Name of the candidate.	Name of the party.*	Place of residence of candidate.†	Place of business.†
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....

We also certify that such convention selected as an emblem or device to designate and distinguish the candidate of the \_\_\_\_\_ party in all districts of the state, a \_\_\_\_\_ which emblem or device is shown by the following representation. (Insert fac simile.)

We also further certify that such convention appointed the following named person (or persons) \_\_\_\_\_ a committee for the purposes specified in section sixty-six of the election law.

(Signed) \_\_\_\_\_

*Presiding officer of Convention.*

(Residence, city or town, street and number, if any.)

Attest: \_\_\_\_\_

*Secretary of Convention.*

(Residence, city or town, street and number, if any.)

STATE OF NEW YORK, } ss.:  
COUNTY OF \_\_\_\_\_,

\_\_\_\_\_, being severally sworn, each for himself, says that the said \_\_\_\_\_ was the presiding officer of the convention of delegates mentioned and described in the foregoing certificate, and that the said \_\_\_\_\_ was the secretary of such convention, and that said certificate and the statements therein contained are true, to the best of his information and belief.

Severally subscribed and sworn to before }  
me, this \_\_\_\_\_ day of \_\_\_\_\_ 189\_\_\_\_. }

(Notary Public.)

I, \_\_\_\_\_, a notary public in and for the county of \_\_\_\_\_, before whom the above oath was taken, do hereby certify that such oath has been administered by me.

(Notary Public.)

\* To be designated in not more than five words.

† If in a city, the street number of his residence and place of business.

**FORM No. 21.**

(For place and time of filing this certificate, see pages 67, 68.)

**Party certificate of nomination by a congressional, senatorial or judicial district convention.**

*To the Secretary of State :*

We certify that at a convention of delegates representing the  
party (a political party which, at the last preceding general  
election at which a governor was elected, cast ten thousand votes in the  
state for such officer), held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 189 ,  
in and for the \_\_\_\_\_ district, the following named persons were placed  
in nomination for offices to be filled at the next ensuing general election :

Title of office to be filled.	Name of the candidate.	Name of the party.*	Place of residence of candidate.†	Place of busi- ness.†
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....

We also certify that such convention appointed the following named  
person (or persons) \_\_\_\_\_ a committee for the purposes specified  
in section sixty-six of the election law.

(Signed) \_\_\_\_\_

*Presiding officer of Convention.*

(Residence, city or town, street and number, if any.) \_\_\_\_\_

*Secretary of Convention.*

(Residence, city or town, street and number, if any.) \_\_\_\_\_

STATE OF NEW YORK, } ss.:  
COUNTY OF \_\_\_\_\_,

and \_\_\_\_\_, being severally sworn, each for himself, says that the  
said \_\_\_\_\_ was the presiding officer of the convention of delegates men-  
tioned and described in the foregoing certificate, and that the said  
\_\_\_\_\_ was the secretary of such convention, and that said certificate and the state-  
ments therein contained are true, to the best of his information and belief.

Severally subscribed and sworn to before }  
me, this \_\_\_\_\_ day of \_\_\_\_\_, 189 , }

(Notary Public.)

I, \_\_\_\_\_, a notary public in and for the county of \_\_\_\_\_, before  
whom the above oath was taken, do hereby certify that such oath has  
been administered by me.

\_\_\_\_\_  
(Notary Public.)

\* To be designated in not more than five words.

† If in a city, the street and number of his residence and place of business.

**FORM No. 22.**

(For place and time of filing this certificate, see pages 67, 68.)

**Party certificate of nomination by a convention for a candidate voted for by the voters of only one county or a portion of a county.***To the County Clerk of \_\_\_\_\_ County, State of New York :*

We certify that at a convention of delegates representing the party, held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_, a political party which, at the last preceding general election at which a governor was elected, cast ten thousand votes in the state for such officers, the following named persons were placed in nomination for offices to be filled at the next ensuing election in the \_\_\_\_\_ (county or section of county):

Title of office to be filled.	Name of the candidate.	Name of party.*	Place of residence of candidate.†	Place of business.†
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....

We also certify that the following named persons were appointed by said convention a committee for the purposes specified in section sixty-six of the election law.

(Name) \_\_\_\_\_

*Presiding officer of Convention.*

(Residence, city or town, street and number, if any.) \_\_\_\_\_

*Secretary of Convention.*

(Residence, city or town, street and number, if any.) \_\_\_\_\_

STATE OF NEW YORK, } ss.:  
COUNTY OF \_\_\_\_\_,

and \_\_\_\_\_, being severally sworn, each for himself, says that the said \_\_\_\_\_ was the presiding officer of the convention of delegates mentioned and described in the foregoing certificate, and that the said \_\_\_\_\_ was the secretary of such convention, and that said certificate and the statements therein contained are true, to the best of his information and belief.

Severally subscribed and sworn to before }  
me, this \_\_\_\_\_ day of \_\_\_\_\_ 189\_\_\_\_. }

(Notary Public.) \_\_\_\_\_

I, \_\_\_\_\_, a notary public in and for the county of \_\_\_\_\_, before whom the above oath was taken, do hereby certify that such oath has been administered by me.

(Notary Public.) \_\_\_\_\_

\* To be designated in not more than five words.

† If in a city, the street and number of his residence and place of business.

**FORM No. 23.**

(For place and time of filing this certificate, see pages 67, 68.)

**Party certificate of nomination for a ward, town or village office.**

To the (Town or City) Clerk of \_\_\_\_\_ :

We certify that at a primary meeting of the voters of the \_\_\_\_\_ party, held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_, a political party which, at the last preceding general election at which a governor was elected, cast ten thousand votes in the state for such officer, the following named persons were placed in nomination for offices to be filled at the next ensuing election in the \_\_\_\_\_.

(Village, ward or town.)

Title of office to be filled.	Name of the candidate.	Name of the party.*	Place of residence of candidate.†	Place of business.†
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....

We also certify that the following named person (or persons) were appointed by said primary a committee for the purposes specified in section sixty-six of the election law.

\_\_\_\_\_  
*Presiding Officer.*

(Residence and address.)

\_\_\_\_\_  
*Secretary.*

(Residence and address.)

STATE OF NEW YORK, } ss.:  
COUNTY OF \_\_\_\_\_,

and \_\_\_\_\_, being severally sworn, each for himself, says that the said \_\_\_\_\_ was the presiding officer of the primary meeting mentioned and described in the foregoing certificate, and that the said \_\_\_\_\_ was the secretary of said primary meeting, and that said certificate and the statements therein contained are true, to the best of his information and belief.

Severally subscribed and sworn to before }  
me, this \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_.

\_\_\_\_\_  
*Notary Public.*

I, \_\_\_\_\_, a notary public in and for the county of \_\_\_\_\_, before whom the above oath was taken, do hereby certify that such oath has been administered by me.

\_\_\_\_\_  
(*Notary Public.*)

\* To be designated in not more than five words.

† If in a city, the street and number of his residence and place of business.



**FORM No. 24.**

(For place and time of filing this certificate, see pages 67, 68.)

**Party certificate of nomination by a duly authorized committee of convention or primary.***To the*

(Insert name of officer with whom certificate is to be filed.)

We certify that at a meeting of the duly authorized committee of the (state or district) convention (or primary) representing the \_\_\_\_\_ party, held at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_, a political party which, at the last preceding general election, at which a governor was elected, cast ten thousand votes in the state for such officer, said committee, acting under authority of the following resolution, passed \_\_\_\_\_, 189\_\_\_\_, at a convention of delegates:

(Here insert resolution passed by convention.)

placed in nomination for the offices to be filled at the next ensuing election the following named persons:

Title of office to be filled.	Name of the candidate.	Name of the party.*	Place of residence.†	Place of business.†
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....

(Signed)

\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_.

*A majority of the members of the committee.*

(The signers of the foregoing certificate are required to add to their signatures their respective places of residence.)

STATE OF NEW YORK, } ss.:

COUNTY OF \_\_\_\_\_

and \_\_\_\_\_, being severally sworn, each for himself says, that he is a member of the \_\_\_\_\_ committee representing the \_\_\_\_\_ party, and that he and the other signers to the foregoing certificate constitute a majority of such committee, and, further, that said certificate and the statements therein contained are true, to the best of his information and belief.

Severally subscribed and sworn to before }  
me, this \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_. }

(Notary Public.)

I, \_\_\_\_\_, a notary public in and for the county of \_\_\_\_\_, before whom the above oath was taken, do hereby certify that such oath has been administered by me.

(Notary Public.)

\* To be designated in not more than five words.

† If in a city, the street and number of residence and place of business.

**FORM No. 25.**

(For time and place of filing this certificate, see pages 67, 68.)

**Independent certificate of nomination.**

To the

(Insert name of officer with whom certificate is to be filed.)

We, the undersigned, duly qualified voters of the State of New York, in accordance with the provisions of section 57 of the election law, hereby make the following nomination for offices to be filled at the next election in the

(State district or election division.)

Titles of offices to be filled.	Name of the candidate.	Political or other name which signers select.*	Residence of the candidate nominated.†	Place of business.‡
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....

We hereby select as an emblem or device to represent and distinguish the candidates hereby nominated by us a which emblem or device is shown by the following representation. (Insert fac simile.)

And we do designate and appoint

(Name, residence and place of business.)

to represent the signers of this certificate for the purposes set forth in section sixty-six of the election law.

Signatures.	Residence, town or city, street and street number, if any.‡
.....	.....
.....	.....
.....	.....

**NOTE.**—It is unnecessary for the signers to sign any affidavit. The making of the oath is to be proved by the officers before whom the oath is taken. The signatures need not all be appended to one paper.

**Certificate of notary or other officer before whom oath is taken to be annexed to the certificate of nomination.**

STATE OF NEW YORK, } ss.:  
COUNTY OF

I, , a notary public in and for the county of do hereby certify that on the day of 189 , before me personally appeared , the persons described in and who signed

\* To be designated in not more than five words and not to include names of any organized political party.

† If in a city, also the street and number of residence and place of business.

‡ Certificates of nominations for officers to be voted for by all the electors of this state should contain the names of the county in addition to place of residence.

the foregoing certificate, and the said persons, having been severally by me duly sworn, each for himself, deposed and said that he is a voter in the \_\_\_\_\_ of \_\_\_\_\_ in said county, and that he has truly stated his residence in his statement and added the same to his said signature.

\_\_\_\_\_  
Notary Public.

### FORM No. 26.

#### List of nominations to be published by county clerk.

To the Voters of ( \_\_\_\_\_ county ) :

The following is a true and correct list of all nominations of candidates for offices to be filled at the \_\_\_\_\_ election to be held \_\_\_\_\_, 189\_\_\_\_, certified to me pursuant to the provisions of chapter 909 of the Laws of 1896 :

Name of candidates.	Residence.*	Place of business.*	Office to be filled.	Party or other designation of candidate.	Fac simile of emblem or device selected to represent and distinguish candidates.
.....	.....	.....	.....	.....	(Here insert fac similes opposite candidates of each party.)
.....	.....	.....	.....	.....	
.....	.....	.....	.....	.....	
.....	.....	.....	.....	.....	

(Signed) \_\_\_\_\_,  
Clerk of \_\_\_\_\_ County.

### FORM No. 27.

#### List of nominations to be posted by town or village clerk.

To the Voters of (town or village of \_\_\_\_\_) :

The following is a true and correct list of all nominations of candidates for offices to be filled at the \_\_\_\_\_ election to be held \_\_\_\_\_, 189\_\_\_\_, filed with me pursuant to the provisions of chapter 909 of 1896, and amendments thereto :

Name of candidates.	Residence.	Office to be filled.	Party or other designation of candidates.	Fac simile of emblems or devices to represent and distinguish candidates.
.....	.....	.....	.....	(Here insert fac similes opposite candidates of each party.)
.....	.....	.....	.....	
.....	.....	.....	.....	
.....	.....	.....	.....	

\_\_\_\_\_  
Clerk.

\* If in a city, the street number of residence and place of business.

**FORM No. 28.**

**Printed list to be sent by county clerk to each town clerk or alderman in county or city.**

(Same to be posted by town clerk or alderman in election districts.)

*To the (Town Clerk or Alderman) of (Town of            or            Ward of            ):*

Please take notice that the following named persons have been nominated as candidates for office, to be voted for at the election to be held in your (town or ward) on the       day of       , 189    , as follows:

Name of candidate.	Place of residence.*	Place of business.*	Office to be filled.	Party or other designation of candidate.	Fac simile of emblems or devices to represent and distinguish candidates.
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....

(Signed) \_\_\_\_\_,  
Clerk of            County.

**FORM No. 29.**

**Declination of nomination.**

*To the Secretary of State (or other officer):*

SIR— Please take notice that I decline the nomination for the office of       , tendered to me by the (convention, primary or voters) of the party, filed in your office.

Dated

Yours,

STATE OF NEW YORK, } ss.:  
COUNTY OF       ,

On this       day of       , 189    , before me personally came       , to me known to be the person described in, and who executed the foregoing declination, and he acknowledged to me that he executed the same for the purposes therein mentioned.

\_\_\_\_\_  
*Notary Public or Justice of the Peace.*

\* If in a city, the street number of residence and place of business.

## FORM No. 30.

**Filling vacancies in nominations by duly authorized committees.**

*To the (insert officer with whom original certificate of nomination is filed):*

Whereas,

(Here set forth cause of vacancy or nature of defect of certificate of nomination.)

Now, therefore, I (or we) \_\_\_\_\_, the duly authorized committee for the purposes specified in section sixty-six of the election law, pursuant to the provisions of said section, do hereby certify that I (or we) have nominated the following named person (or persons) to fill the vacancy (or vacancies) caused by

Name of new candidate.	Place of residence.	Place of business.	Title of office for which nominated.	Name of original candidate.	Name of political party or other nominating body.
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....

(Signed)

\_\_\_\_\_  
\_\_\_\_\_

*A majority of the committee.*

(Signers should state residence, city or town, street and number, if any.)

**Acknowledgment and affidavit to be annexed to certificate.**

STATE OF NEW YORK, } ss.:  
COUNTY OF \_\_\_\_\_,

On the day and date below mentioned \_\_\_\_\_ before me personally appeared \_\_\_\_\_ to me known and known to me to be the persons described and who executed the foregoing certificate, and severally acknowledged the execution thereof for the purposes therein set forth, and each of said persons being by me severally duly sworn depose and say that the matters therein stated are true to the best of his information and belief.

(Signed)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Acknowledged, subscribed and sworn to before }  
me, this \_\_\_\_\_ day of \_\_\_\_\_ 189 . }

\_\_\_\_\_  
*Notary Public.*

**FORM No. 31.**

**Candidate's statement of election expenses.**

I, \_\_\_\_\_, a candidate voted for at the  
election held in the state of New York (or  
county of \_\_\_\_\_) on the \_\_\_\_\_ day of \_\_\_\_\_, 189 , for  
the office of \_\_\_\_\_ in said state (or county), do hereby make and  
file the following itemized statement, showing in detail all the moneys  
contributed or expended by me directly or indirectly by myself or through  
any other person in aid of my election.

(Here insert items.)

STATE OF NEW YORK, }  
COUNTY OF \_\_\_\_\_, } ss.:  
Town of \_\_\_\_\_, }

\_\_\_\_\_, being duly sworn, deposes and says  
that he was a candidate for the office of \_\_\_\_\_ and voted for  
as such at the \_\_\_\_\_ election held in the said state of New York  
on the \_\_\_\_\_ of \_\_\_\_\_, 189 ; that the statement to which  
this affidavit is attached is in all respects true; and that the same is a  
full and detailed statement of all moneys so contributed or expended by  
him, directly or indirectly, by himself or through any other person in  
aid of his election.

Sworn to before me this \_\_\_\_\_ }  
of \_\_\_\_\_, 189 . }

\_\_\_\_\_  
*Notary Public.*

**ARTICLE IV.****Official and sample ballots, instruction cards and stationery.****SECTION 80. Official ballots for elections.**

81. Form of general ballot.
82. Form of ballot for questions submitted.
83. Sample ballots, instruction cards and stationery.
84. Blank forms for election officers.
85. Number of official ballots.
86. Officers providing ballots and stationery.
87. Distribution of ballots and stationery.
88. Errors and omissions in ballots.
89. Unofficial ballots.

§ 80. **Official ballots for elections.**—Official ballots shall be provided at public expense at each polling place for every election at which public officers are to be elected directly by the people, except an election of school district officers or school officers of a city or village at which no other public officer is to be elected.

§ 81. **Form of general ballot.**—There shall be provided at each polling place at each election at which public officers are voted for, but one form of ballot for all the candidates for public office, and every ballot shall contain the names of all the candidates whose nominations for any office specified on the ballot have been duly made and not withdrawn, as provided in this act, together with the title of the office arranged in tickets under the titles of the respective political parties or independent bodies, as certified in the certificates of nomination. All ballots shall be printed in black ink on clear white, book paper, free from ground wood, five hundred sheets of which, twenty-five by thirty-eight inches in size, shall weigh sixty pounds, and which shall test for that size and weight at least twenty points on a Morrison tester. Every such ballot printed in accordance with the provisions of this act, shall contain a party device for each political party represented on the ticket in accordance with the provisions of section fifty-six of this act. The arrangement of the ballot shall, in general, conform as nearly as practicable to the plan hereinafter given. The list of candidates of the several parties shall be printed in parallel columns, each column to be headed by the chosen device of such party, and the party name or other

designation in such order as the secretary of state may direct, precedence, however, being given to the party which polled the highest number of votes for governor at the last preceding general election for such officer, and so on. The number of such columns shall exceed by one the number of separate tickets of candidates to be voted for at the polling place for which the ballot is provided, except as otherwise provided in this section. The party name shall be printed in display, the name or designation of the office in brier lower case, and the name of the candidate therefor in brier capital type. The title of the office, together with the name of the candidate therefor shall be printed in a space one-half inch in depth, and at least two inches in width defined by light horizontal ruled lines, with a blank space on the left thereof, one-fourth of an inch wide, inclosed by heavier dark lines, which space (called the voting space) shall be of the same depth as the space containing the title of the office and the name of the candidate; provided, however, that when two or more persons are to be voted for, for the same office, for the same term, on the same party ticket, as for instance, presidential electors, the title of the office shall be printed in the first space only, which space shall be half an inch in depth and the several spaces in which only such candidates' names are printed, and the voting spaces to the left thereof, shall each be one-fourth of an inch in depth between the horizontal ruled lines. On the right of each ballot shall be a column in which shall be printed only the titles of the offices for which candidates may be voted for by the electors at the polling place for which ballot is printed. Such column is designated as the "blank column," and in such column the voting spaces shall be omitted, but in all other respects such blank column shall be a duplicate of the political party columns upon such ballot. In the space of such column above the heavy ruled line shall be printed in great primer Roman condensed capitals the words "blank column," and below such words shall be printed in brier capital type the following: "The elector may write in the column below, under the title of the office, the name of any person whose name is not printed upon the ballot, for whom he desires to vote." At elections at which



presidential electors are to be voted for, the names of the candidates for president and vice-president shall be placed on the ticket immediately below the name of the party making the nominations, and above the heavy ruled line preceding the names of the presidential electors, and shall be printed in type known as great primer Roman condensed capitals. The heading of each party ticket, including the name of the party, the device above, and the circle between the device and each name, shall be separated from the rest of the ticket by a heavy printed line, and the circle above the name of the party shall be defined by heavier lines than the lines defining the black spaces before the names of candidates, and such circle shall be surrounded by the following, printed in heavy faced nonpareil type: "For a straight ticket, mark within this circle." Provided, however, that in the case of nominations provided for in section fifty-seven of this act, designated as "independent nominations," the ballot shall be so arranged that at the right of the last column for nominations designated in section fifty-six as "party nominations," the several tickets of the names of the candidates independently nominated shall be printed in one or more columns according to the space required, having above each of the tickets the political or other name selected to designate such independent nominations, and the circle and also the device or emblem to represent and distinguish the candidates of the several independent bodies making such nominations. The independent tickets occupying the same column shall be separated from each other by a solid black line one-eighth of an inch wide. At the top of the column, and above the first emblem in each of such columns for independent nominations, shall be printed in type known as great primer Roman condensed capitals the words "independent nominations." Each column upon the ballot shall be bordered on either side by a broad solid printed line one-eighth of an inch wide and the edge of the ballot on either side shall be trimmed off up to the border or solid line described. The ballots shall be so printed as to give each elector a clear opportunity to designate by a cross X mark in a large blank circle three-quarters of an inch in diameter, below the device, and

above the name of the party at the head of the ticket or list of candidates, his choice of a party ticket and desire to vote for each and every candidate thereon, and by a cross X mark in a blank inclosed space, heretofore designated as the voting space, on the left of and before the name of each candidate, his choice of particular candidates. The ballot shall be printed on the same leaf with a stub, and separated therefrom by a perforated line. The part above the perforated line designated as the stub shall extend the entire width of the ballot, and shall be of sufficient depth to allow the instructions to voters to be printed thereon, such depth to be not less than two inches from the perforated line to the top thereof. Upon the face of each stub shall be printed in type known as brevier capitals the following:

“This ballot should be marked in one of two ways with a pencil having black lead. To vote a straight ticket, make a cross X mark within the circle above one of the party columns. To vote a split ticket, that is, for candidates of different parties, the voter should make a cross X mark before the name of each candidate for whom he votes. If the ticket marked in the circle for a straight ticket does not contain the names of candidates for all offices for which the elector may vote, he may vote for candidates for such offices so omitted, by making a cross X mark before the names of candidates for such offices on another ticket, or, by writing the names, if they are not printed upon the ballot, in the blank column under the title of the office. To vote for a person not on the ballot, write the name of such person under the title of the office in the blank column. Any other mark than the cross X mark used for the purpose of voting or any erasure made on this ballot, makes it void, and no vote can be counted hereon. If you tear, or deface, or wrongly mark this ballot, return it and obtain another.”

On the back of the ballot, below the stub, and immediately at the left of the center of the ballot, shall be printed in great primer Roman condensed capitals the words: “Official ballot for,” and after the word “for” shall follow the designation of the polling place for which the ballot is prepared, the date of the election, and a fac simile of the signature of the officer who has caused the ballots to be printed. Ballots for town

meetings not held at the same time with a general election shall be indorsed "Town," and for village elections, "Village." On the back of the stub, and immediately above the center of the indorsement upon the back of the ballot, shall be printed the consecutive number of the ballot beginning with "No. 1," and increasing in regular numerical order. All of the official ballots of the same sort prepared by any officer or board for the same polling place, shall be of precisely the same size, arrangement, quality and tint of paper, and kind of type, and shall be printed with black ink of the same tint, so that when the stubs numbered as aforesaid shall be detached therefrom, it shall be impossible to distinguish any one of the ballots from the other ballots of the same sort, and the names of all candidates printed upon the ballot shall be in type of the same size and character. If two or more officers are to be elected to the same office for different terms, the terms for which each is nominated shall be printed upon the ballot as a part of the title of the office. If at a general election one representative in congress is to be elected for a full term and another to fill a vacancy, the ballots containing the names of the candidates shall, as a part of the title of the office, designate the term to fill which such candidates are severally nominated. When no nomination has been made by a political party, as designated by section fifty-six, for an office to be filled at the election, the title of such office shall be printed in such party column, and underneath such title shall be printed in briefer capital type the words "No nomination." No ticket or list of candidates shall be printed, under the name of any political party or independent body which contains more candidates for any office than there are persons to be elected to such office.

§ 82. **Form of ballot for questions submitted.**—Whenever the adoption of a constitutional amendment or any other proposition or question is to be submitted to the vote of the electors of the state, or of any district thereof, a separate ballot shall be provided by the same officers who are charged by law with the duty of providing the official ballots for candidates for public office. Such ballots shall comply with the requirements for official ballots for candidates for public office, in so far as such requirements are applicable thereto.

Under the perforated line shall be clearly printed, in brevier lower case type, the question of the adoption of the constitutional amendment or other proposition or question upon which the electors within the district for which such ballot is provided may lawfully vote. If there be more than one constitutional amendment or proposition or question to be submitted to the voters of that district, the different amendments or propositions or questions shall be separately numbered and printed, and separated by a broad solid line one-eighth of an inch wide. Opposite and before each such amendment, question or proposition so submitted, shall be printed two squares inclosed in ruled lines, one above the other. Preceding the upper one of such squares shall be printed the words "Yes," and preceding the lower one of such squares shall be printed the word "No." At the top of each such ballots, immediately above the perforated line, shall be printed in brevier capital type the following words only: "Notice to electors. For an affirmative vote upon any question submitted upon this ballot, make a cross X mark in the square after the word 'Yes.' For a negative vote, make a similar mark in the square following the word 'No.'" All such ballots for the same polling place shall be of the same color and size, and similarly printed, so that, after the removal of the stub, which shall be numbered as in cases of ballots for candidates for public office, it shall be impossible to identify or distinguish any one of such ballots from the others. On the back of each such ballot, below the stub, shall be printed in addition to the endorsement as prescribed for general ballots, the words "Questions submitted," so as to distinguish the said ballots from the official ballots for candidates for office.

**Misconduct in relation to official ballots.**—"A person who \* \* \*

"4. Forges or falsely makes the official indorsement of any ballot; or

"5. Having charge of official ballots, destroys, conceals or suppresses them, except as provided by law,

"Is punishable by imprisonment for not less than one nor more than five years." (*Extract § 41g, Penal Code.*)

**The names of all candidates** to be voted for at a general election, including village police commissioners shall be placed on the official ballot prepared by the county clerk. (*In re McLaren*, 34 N. Y. St. Repr. 634.)

**§ 83. Sample ballots and stationery.**—Sample ballots, equal in number to twenty-five percentum of the number of official ballots provided therefor, shall also be provided for

every polling place for which official ballots are required to be provided. Such sample ballot shall be printed on paper of a different color from the official ballot, and without numbers on the stubs, but shall, in all other respects, be precisely similar to the official ballots to be voted at that polling place. One of such sample ballots shall, at any time on the day of election, be furnished upon application to any elector entitled to vote at that polling place, and may be taken by him away from such polling place before receiving his official ballot or ballots. Twelve instruction cards, printed in English, and twelve printed in each of such other languages as the officer or officers charged with providing them shall deem necessary, shall also be provided for each such polling place, containing in clear, large type, full instructions for the guidance of electors in obtaining ballots for voting, in preparing their ballots for deposit in the boxes, in returning their ballots to the ballot clerks, and in obtaining new ballots in place of those returned, and, in smaller sized type, a copy of each of the sections of the penal code relating to crimes against the elective franchise. There shall also be provided two poll-books, a suitable number of markers, designated as "distance markers," to indicate the distance of one hundred feet from the polling place, two tally sheets and three complete election return blanks for the use of inspectors and ballot clerks in the forms hereinafter provided, heavy manilla envelopes for statements and returns, sealing wax, pencils having black lead only, pens, penholders, blotting paper and ink. All such articles herein enumerated are hereby designated as "stationery."

[For Form for Instruction Card, see Form No. 3a, page 104.]

**§ 84. Blank forms for election officers.**—The officers charged with the duty of furnishing official ballots shall furnish to the board of inspectors of each election district, two tally sheet blanks, three ballot return sheet blanks, three election return sheet blanks, one of which shall be endorsed "original return," the other "copies of the original return," three blanks for the report of assisted and challenged electors, which blanks shall be delivered to such board of inspectors as elsewhere provided.

**Tally sheets.**—The tally sheet blanks shall be printed as nearly as possible in the following form :

NOTE.—These columns belong at the extreme right of the tally-sheet.

(Sample) Tally-Sheet of Ballots Cast.

LIST OF OFFICES.	1		2		3		4		5		6		7		8		9		10		11		12	
	REPUBLICAN TICKET.		DEMOCRATIC TICKET.		Number of votes cast and counted for each candidate on straight ballots.		Number of votes cast and counted for each candidate on split ballots.		Total number of votes cast and counted for each candidate.		Number of votes cast and counted for each candidate on straight ballots.		Number of votes cast and counted for each candidate on split ballots.		Total number of votes cast and counted for each candidate.		Total number of ballots not wholly blank on which no vote was counted for the following offices.		Total number of wholly blank ballots.		Total number of void ballots.		Total number of ballots ac- counted for.	
For Governor.....	LEVI P. MORTON..		DAVID B. HILL ....		290		290		300		140		140		125		790		5		5		485	
For Lieutenant-Governor	CHAS. T. SEXTON.		WM. F. SHEEHAN..		290		290		303		140		140		126		790		5		5		485	
For County Clerk .....	JOHN DOE .....		RICHARD ROE ....		290		290		315		140		140		145		790		5		5		485	

NOTE.—A separate column must be provided for each ticket printed upon the ballot. Each office shall be separated by a ruled line running clear across the sheet, so that the names of all the candidates for the same office shall be upon the same line. By adding together the votes cast for all the candidates for a particular office, together with the number of ballots on which no vote was cast for that office, and the number of wholly blank and void ballots on which no vote was counted for any office, the sum should equal the total number of ballots voted. Unless it does, the count of the votes and ballots is wrong, and they should be recounted.

**Tally sheets.**— The tally sheet planks shall be as nearly as possible in the following form : At the extreme left of such sheet there shall be a column headed "List of offices," in which shall be printed the titles of all the offices printed upon the official ballot, and in the same order. Each office shall be separated by a heavy ruled line running the full width of such sheet. There shall be printed thereon, in separate columns under the name of the respective parties the tickets of all the parties as they appear on the official ballot, so that the names of all candidates for the same office shall be upon the same line. Opposite and to the right of each party or independent ticket or list of candidates, shall be a column headed "Number of votes cast, and counted for each candidate on straight ballots," in which column and opposite every name, shall be entered the number of straight party votes counted (which number is the same for every candidate of that party). To the right of such column there shall be another column headed, "Number of votes cast and counted for each candidate on split ballots," and in such column shall be entered by single marks, grouped into five marks, the votes canvassed for such candidates on the split ballots. To the right of such column shall be another column headed, "Total number of votes cast and counted for each candidate," in which shall be entered, opposite the name of each candidate, the total number of votes cast and counted for such candidate on both straight and split ballots. To the right of the last column for entering the total vote cast for candidates of any party, shall be a column headed, "*Total number of ballots*, not wholly blank, on which no vote was counted for the following offices," and in such column shall be entered opposite the titles of the respective offices, by single marks, the number of ballots on which no vote was cast for any candidate for such office. To the right of such column shall be another column headed, "Total number of wholly blank ballots," in which column shall be entered opposite the title of each office the number of ballots found to be wholly blank. To the right of such column shall be another column headed, "Total number of void ballots," in which column shall be entered opposite each title of each office the number of bal-

lots which were rejected as void. At the extreme right of such sheet there shall be a column headed, "Total number of ballots accounted for," in which shall be entered opposite each office the sum of the total vote cast for all candidates for the office, together with the number of ballots not wholly blank, on which no vote was counted for that office, the total number of wholly blank, and the total number of void ballots, and the votes cast, if any, for candidates for such office whose names are not printed upon the ballot. Such sum must equal the number of ballots voted, as shown by the ballot clerks' return of ballots, and if it does not, there has been a mistake in the count, and the ballots must be recounted for such office. In case a person is voted for whose name is not printed on the ballot, the poll clerks, who shall keep the tally sheets, shall enter such name and the votes therefor on the tally sheet. The method of counting the votes shall be as provided in section one hundred and ten of the election law :

**Sample.**

Form of ballot return to be prepared by the ballot clerks, and attached to the original statement of canvass made by the inspectors and to each copy, in compliance with subdivision two of section one hundred and three of the election law :

1. The number of full sets of official ballots furnished to election district number (five) of the (town of Canandaigua), county of (Ontario), were.....	800
2. The number of sets of official ballots cancelled before delivery to voters by reason of one or more of the set being found defective in printing or mutilated, all of which were destroyed by us, were.....	5
3. The number of sets of official ballots spoiled and returned by voters, all of which were destroyed by us, were.....	10
4. The number of sets of official ballots returned to the county clerk or other officer, unused, were.....	300
5. The number of sets of official ballots actually voted were .....	485
6. Total sets of official ballots accounted for are.....	800



7. The number of sets of detached stubs were.....	500
8. The number of sets of stubs on unused ballots were. ....	300
9. The total sets of stubs accounted for are.....	<u>800</u>

We hereby certify that the foregoing ballot return for election district number (five) of the (town of Canandaigua), county of (Ontario), for the election held November (5th, 1895), is correct.

(Signed.) .....  
.....

Ballot Clerks.

### Sample.

Inspectors' returns and statement of canvass.— *Original* official statement of the result of a (general) election, held on the (fifth) day of November (1895), in the (fifth) election district of the (town of Canandaigua), county of (Ontario), state of New York, made by the inspectors of election in and for said district, which return is made as provided in section one hundred and eleven of the election law.

### RETURN OF BALLOTS VOTED.

1. The whole number of general ballots actually voted, as verified by the return of the ballot clerks attached hereto were (four hundred and eighty-five). ....	<u>485</u>
2. The number of general ballots cast and found to be entirely blank, all of which were returned by us to the ballot box, were (five) .....	5
3. The number of general ballots cast which were rejected by us as "void" and on which no vote was counted for any candidate, all of which are in the sealed package returned herewith, and on each of which ballot is indorsed the reason for such rejection, were (ten). ....	10
4. The number of general ballots cast on which votes were counted for one or more candidates, all of which were returned to the ballot box (except those protested as being marked for identification), were (four hundred and seventy). ....	<u>470</u>
5. The total number of ballots accounted for by us are	<u><u>485</u></u>

We certify the foregoing statement of ballots voted is correct in all respects.

Dated, this (fifth) day of November, (1895).

.....  
 .....  
 .....  
 .....

Board of Inspectors.

**Statement and Return of the Votes for the Office of  
 (Governor).**

1. The number of ballots cast on which votes were counted for any candidate for office were (four hundred and seventy).....	470
2. The number of ballots cast and counted on which there was no vote for the office of (governor) were (five).....	5
3. The whole number of ballots on which votes were counted for the office of (governor) were (four hundred and sixty-five).....	<u>465</u>
4. Of which (Levi P. Morton) received (three hundred).	300
5. (David B. Hill) received (one hundred and sixty-five).	<u>165</u>
Total .....	<u><u>465</u></u>

**Statement and Return of the Votes of the Office of  
 (Lieutenant-Governor).**

1. The whole number of ballots cast on which votes were counted for any candidate for office were (four hundred and seventy).....	470
2. The number of ballots cast and counted on which there was no vote for the office of (lieutenant-governor) were (seven).....	7
3. The whole number of ballots on which votes were counted for the office of (lieutenant-governor) were (four hundred and sixty-three).....	<u>463</u>

4. Of which (Charles T. Saxton) received (three hundred and three).....	303
5. (William F. Sheehan) received (one hundred and sixty).....	160
Total .....	<u>463</u>

**Statement and Return of the Votes for the Office of (County Clerk.)**

1. The whole number of ballots cast on which votes were counted for any candidate for office were (four hundred and seventy).....	470
2. The number of ballots cast and counted on which there was no vote for the office of (county clerk) were (ten).....	10
3. The whole number of ballots on which votes were counted for the office of (county clerk) were (four hundred and sixty).....	<u>460</u>
4. Of which (John Doe) received (three hundred and fifteen).....	315
5. (Richard Doe) received (one hundred and forty-five)..	<u>145</u>
Total.....	<u>460</u>

The number of general ballots "protested as marked for identification" (all of which are in the sealed package returned herewith together with the void ballots) each of which have been indorsed by us "protested as marked for identification," the mark or marking to which objection was made being specified upon the back of each such ballot, and all of which were counted for the several candidates voted thereon in the foregoing returns, were (three)..... 3

But such number does not include any ballot which was rejected by us as void. Such void ballots are included in our return as "void" ballots on which no vote for any candidate was counted and are marked upon the back thereof "void" and indorsed with the reason for so declaring them. They are in the sealed package returned herewith together with the ballots "protested as being marked for identification."

We certify the foregoing statement is correct in all respects.  
Dated this (fifth) day of November, 1895.

.....  
.....  
.....  
.....

Board of Inspectors.

Note.— A similar certificate is to be made at the bottom of each sheet or half sheet of this return. If ballots are voted on any constitutional amendment or question or proposition submitted, a similar return is to be included. Two certified copies of this original statement and return are to be made.

**Blank for the Report of Assisted and Challenged Electors.**

Three blank statements in the following form shall also be furnished to each board of inspectors, which shall, at the close of the election, be filled by them, and one original statement shall be attached to the original return, and a copy thereof to each copy of the original return.

1. The names of persons who were challenged, and the challenge not withdrawn, were....., in all, three....(3)
2. The names of persons who received assistance on account of physical disability, were ....., in all, five ....(5)
3. The names of persons who received assistance on account of being unable to write by reason of illiteracy, were...., in all, two ..... ..(2)

We certify the foregoing statement is correct.

Dated this (fifth) day of November, 1895.

.....  
.....  
.....  
.....

Board of Inspectors.

§ 85. **Number of official ballots.**— The number of official ballots of each kind to be provided for each polling place for each election to be held thereat, except a town meeting or village election held at a different time from a general election, shall be two times as many ballots as there were names of electors on the register of electors of such district for such

election at the close of the fourth meeting for such registration. In cities of the first class the officer or board charged with the duty of furnishing official ballots shall furnish twice as many official ballots of each kind to be provided for such election as there are electors entitled to vote thereat, as nearly as can be estimated by such officer or board. When but two days of registration are required there shall be a number equal to two times the number of names upon the register at the close of the second meeting for registration. The number of official ballots of each kind to be provided for each polling place for a town meeting or village or city election held at a different time from a general election, shall be two times the number of persons who will be entitled to vote thereat, as nearly as can be estimated by the officer charged with the duty of providing such ballots.

§ 86. **Officers providing ballots and stationery.**—The county clerk of each county except New York and Kings, the board of police commissioners of the city of New York and the board of elections of the city of Brooklyn shall provide the requisite number of official and sample ballots, cards of instruction, two poll-books, distance markers, two tally sheets, inspectors' and ballot clerks' return sheets (three of each kind, and one of each to be marked "original"), pens, penholders, ink, pencils having black lead, blotting paper, sealing wax and such other articles of stationery as may be necessary for the proper conduct of the election, and the canvass of the votes, for each election district in such county or city respectively, for each election to be held thereat, except that when town meetings, city or village elections and elections for school officers are not held at the same time as a general election the clerk of such town, city or village, respectively, and the boards in the cities of New York and Brooklyn required to provide the same shall provide such official and sample ballots and stationery for such election or town meeting. Each officer or board charged with the duty of providing official ballots for any polling place, shall have sample ballots and official ballots provided, and in the possession of such officer or board, and open to public inspection as follows: The sample ballots five days before the election, and the official ballots four

days before the election for which they are prepared, unless prepared for a village election or town meeting held at a different time from a general election, in which case the official ballot shall be so printed and in possession at least one day, and the sample ballots at least two days before such election or town meeting. During the times within which the same are open for inspection as aforesaid, it shall be the duty of the officer or board charged by law with the duty of preparing the same, to deliver a sample ballot of the kind to be voted in his district to each qualified elector who shall apply therefor, so that each elector who may desire the same may obtain a sample ballot, similar except as regards color and the number on the stub, to the official ballot to be voted at the polling place at which he is entitled to vote.

**§ 87. Distribution of ballots and stationery.**— The county clerk of each county except New York and Kings shall deliver at his office to each town or city clerk in such county on the Saturday before the election at which they may be voted, the official and sample ballots, cards of instructions and other stationery required to be provided for each polling place in such town or city for such election. It is hereby made the duty of each such town or city clerk to call at the office of such county clerk at such time and receive such ballots and stationery. In the cities of New York and Brooklyn, the boards required to provide such ballots and stationery shall cause them to be delivered to the board of inspectors of each election district at least one-half hour before the opening of the polls on each day of election. Each kind of official ballots shall be arranged in a package in the consecutive order of the numbers printed on the stubs thereof, beginning with number one. All official and sample ballots provided for such election shall be in separate sealed packages, clearly marked on the outside thereof with the number and kind of ballots contained therein, and indorsed with the designation of the election district for which they were prepared. The instruction cards and other stationery provided for each election district shall also be enclosed in a sealed package or packages with a label on the outside thereof showing the contents of each such package. Each such town and city clerk,

receiving such packages shall cause all such packages so received and marked for any election district to be delivered unopened and with the seals thereof unbroken to the inspectors of election of such election district one-half hour before the opening of the polls of such election therein. The inspectors of election receiving such packages shall give to such town or city clerk, or board, delivering such packages a receipt therefor specifying the number and kind of packages received by them, which receipt shall be filed in the office of such clerk or board. Town, city and village clerks required to provide the same for town meetings, city and village elections held at different times from a general election, and the boards of the cities of New York and Brooklyn required to provide the same for elections held therein, respectively, shall in like manner, deliver to the inspectors or presiding officers of the election at each polling place at which such meetings and elections are held, respectively, the official ballots, sample ballots, instruction cards and other stationery required for such election or town meeting, respectively, in like sealed packages marked on the outside in like manner, and shall take and file receipts therefor in like manner in their respective offices.

[For Forms for Receipts, see Forms No. 33, 34, pages 114, 115.]

**Failure to deliver official ballots.**—“ Any person who has undertaken to deliver official ballots to any city, town or village clerk, or inspector, as authorized by the election law, and neglects or refuses to do so, is guilty of a misdemeanor.” (§ 414, *Penal Code*.)

**§ 88. Errors and omissions in ballots.**— Upon affidavit, presented by any elector, that an error or omission has occurred in the publication of the names or description of the candidates nominated for office, or in the printing of sample or official ballots, the supreme court, or a justice thereof, may make an order, requiring the county clerk or other officer or board charged with the duty in respect to which such error or omission occurs, to correct such error, or show cause why such error should not be corrected. The county clerk or such other officers or boards shall, upon their own motion, correct without delay any patent error in the ballots which they may discover, or which shall be brought to their attention, and which can be corrected without interfering with the timely

distribution of the ballots to the inspectors for use at such election.

§ 89. **Unofficial ballots.**— If the official ballots required to be furnished to any town or city clerk, or board, shall not be delivered at the time required, or if after delivery shall be lost, destroyed or stolen, the clerk of such town or city, or such board, shall cause other ballots to be prepared as nearly in the form of the official ballots as practicable, but without the indorsement, and upon the receipt of ballots so prepared from such clerk or board, accompanied by a statement under oath that the same have been so prepared and furnished by him or them, and that the official ballots have not been so delivered, or have been lost, destroyed or stolen, the inspectors of election shall cause the ballots so substituted to be used at the election in the same manner, as near as may be, as the official ballots. Such ballots so substituted shall be known as unofficial ballots.



## FORMS FOR ELECTION LAW, ARTICLE 4.

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### FORM No. 32.

(See § 82, Election Law.)

**Instruction card to be prepared and printed in one or more languages by county clerks, to be distributed in each voting district and hung in each voting booth election day.**

#### INSTRUCTIONS FOR THE GUIDANCE OF ELECTORS.

**Obtaining ballots.**—One official ballot or set of official ballots, folded in the proper manner for voting, may be obtained by an elector from the ballot clerks at the polls of election, upon the elector announcing his name to the inspectors and after announcement by the inspectors that he is duly registered. On receiving his ballot he shall forthwith, and without leaving the inclosed space, retire alone to one of the unoccupied voting booths, and without undue delay unfold and mark his ballot as hereinafter described, remaining in the booth not more than five minutes in case all the booths are in use.

**Rules for preparing ballots.**—The voter is to observe the following rules in marking his ballot, using only for the purpose a pencil having a black lead :

1. If the elector desires to vote a straight ticket, that is, for each and every candidate of one party for whatever office nominated, he shall make a cross X mark in the circle above the name of the party at the head of the ticket.

2. If the elector desires to vote a split ticket, that is, for candidates of different parties, he must not make a cross X mark in the circle above the name of any party, but shall make a cross X mark in the voting space before the name of each candidate for whom he desires to vote on whatever ticket he may be.

If the ticket marked in the circle for a straight ticket does not contain the names of candidates for all offices for which the elector may vote, he may vote for candidates for such offices so omitted by making a cross X mark before the names of candidates for such offices on other tickets, or by writing the names, if they are not printed upon the ballot, in the blank column under the title of the office. If the elector desires to vote for any person whose name does not appear upon the ballot, he can so vote by writing the name with a pencil having black lead in the proper place in the blank column. The elector can vote blank for any office by omitting to make a cross X mark in any circle, and by making a cross X mark in the voting space before the name of every candidate he desires to vote for, except for the office for which he desires to cast a blank vote. In the case of a question submitted, the elector shall make a cross X mark in the blank

square space on the right of and after the answer "Yes" or "No," which he desires to give on each such question submitted. One straight line crossing another straight line at any angle within a circle, or within the voting spaces, shall be deemed a valid voting mark.

**Returning and obtaining new ballots in place of those returned.**—If an elector defaces or tears a ballot or one of a set of ballots, or wrongly marks the same ballot so that it cannot be used, he may successively obtain others, one set at a time, not exceeding in all three sets, upon returning each set of ballots so defaced or wrongly marked to the ballot clerks.

**Delivery of ballots to inspectors.**—After marking his ballot or ballots and before leaving the booth the elector must fold his ballot or ballots in the proper manner for voting, which is: First, by bringing the bottom of each ballot up to the perforated line, and second, by folding both sides to the center or towards the center, in such manner that when folded the face of each ballot shall be concealed and the printed number on the stub and the indorsement on the back of the ballot visible. He shall then deliver the ballot or ballots properly folded to the inspector in charge of the ballot boxes, who, if the voter is entitled to vote and be not challenged, or if challenged, the challenge be decided in his favor, and the ballots have no unlawful mark or tear visible on the outside thereof, after removing the stub, shall deposit the same in plain view of the voter in the proper ballot box for the reception of voted ballots.

#### **SECTIONS OF PENAL CODE RELATING TO CRIMES AGAINST ELECTIVE FRANCHISE.**

§ 41. **Misdemeanor at political caucuses and conventions.**—Any person who,

1. Votes or attempts to vote at a political caucus or convention without being entitled to do so; or,
2. By bribery, menace or other corrupt means, directly or indirectly, attempts to influence the vote of any person entitled to vote at such caucus or convention, or obstructs such person in voting, or prevents him from voting thereat; or,
3. Fraudulently or wrongfully does any act tending to affect the result of an election at such caucus or convention; or,
4. Being an officer, teller or canvasser thereof, willfully omits, refuses or neglects to do any act required by the election law, or refuses to permit any person to do any act authorized thereby, or makes or attempts to make any false canvass of the ballots cast at such caucus or convention or statement of the result of a canvass of the ballots cast thereat; or,
5. Induces or attempts to induce any officer, teller or canvasser of such caucus or convention to do any act in violation of his duty; or,
6. Directly or indirectly, by himself or through any other person, pays, or offers to pay, money or other valuable thing to any person to induce any voter or voters to vote or refrain from voting at such caucus or convention for any particular person or persons; or,

7. Directly or indirectly, by himself or through any other person, receives money or other valuable thing before, at or after such caucus or convention for voting or refraining from voting for or against any person at such caucus or convention, is guilty of a misdemeanor, punishable by imprisonment for not more than one year.

§ 41a. **False registration.**—Any person who causes his name to be placed upon any list or register of voters in more than one election district for the same election, or upon a list or register of voters, knowing that he will not be a qualified voter in the district at the election for which such list or register is made, or aids or abets any such act, is punishable by imprisonment for not more than five years.

§ 41b. **Mutilation, destruction or loss of registry list.**—Any person who willfully loses, destroys or mutilates the list or register of voters in any election district, or a certified copy thereof, after the making the same and before the closing of the polls of the election for which the same is made, is guilty of a misdemeanor.

§ 41c. **Misconduct of registry officers.**—Any member or clerk of a registry board who willfully violates any provision of the election law relative to registration of electors or willfully neglects or refuses to perform any duty imposed on him by law, or is guilty of any fraud in the execution of the duties of his office, shall be punishable by imprisonment for not less than two and not more than ten years.

§ 41d. **Failure of house-dweller to answer inquiries.**—Any person dwelling in a building in a city who willfully refuses to truly answer any question asked by any elector of such city, between the first meeting of the boards of registry therein for any election and the closing of the polls at such election, relating to the residence and qualifications as a voter of any person dwelling in such building, or of any person who appears upon the list or register of voters made by a board of registry as residing at such building, is guilty of a misdemeanor.

§ 41e. **Removal, mutilation or destruction of election booths, supplies, poll-lists or cards of instruction.**—Any person who:

1. During an election or town meeting, willfully defaces or injures a voting booth or compartment, or willfully removes or destroys any of the supplies or other conveniences placed in the voting booths or compartment, in pursuance of law; or,

2. Before the closing of the polls, willfully defaces or destroys any list of candidates to be voted for at such election or town meeting, posted in accordance with the election law; or,

3. During an election or town meeting, willfully removes or defaces the cards for the instruction of voters, posted in accordance with the election law, is guilty of a misdemeanor.

§ 41f. **Refusal to permit employes to attend election.**—A person or corporation who refuses to an employe entitled to vote at an election or town meeting, the privilege of attending thereat, as provided by the election law, or subjects such employe to a penalty or reduction of wages because of the exercise of such privilege, is guilty of a misdemeanor.

§ 41g. **Misconduct in relation to certificates of nomination, and official ballots.**—A person who,

1. Falsely makes or makes oath to, or fraudulently defaces or destroys, a certificate of nomination or any part thereof; or
2. Files or receives for filing a certificate of nomination knowing that any part thereof was falsely made; or
3. Suppresses a certificate of nomination which has been duly filed, or any part thereof; or
4. Forges or falsely makes the official indorsement of any ballot; or
5. Having charge of official ballots, destroys, conceals or suppresses them, except as provided by law,

Is punishable by imprisonment for not less than one nor more than five years.

§ 41h. **Failure to deliver official ballots.**—Any person who has undertaken to deliver official ballots to any city, town or village clerk, or inspector, as authorized by the election law, and neglects or refuses to do so, is guilty of a misdemeanor.

§ 41i. **Misconduct of election officers and watchers.**—Any election officer or watcher who:

1. Reveals to another person the name of any candidate for whom a voter has voted; or,
2. Communicates to another person his opinion, belief or impression as to how or for whom a voter has voted; or,
3. Places a mark upon a ballot, or does any other act by which one ballot can be distinguished from another, or can be identified; or,
4. Before the closing of the polls, unfolds a ballot which a voter has prepared for voting, is punishable by imprisonment for not less than six months nor more than one year.

§ 41j. **Violation of election law by public officer.**—A public officer who omits, refuses or neglects to perform any act required of him by the election law, or refuses to permit the doing of any act authorized thereby, is, if not otherwise provided by law, punishable by imprisonment for not more than three years, or by a fine of not more than three thousand dollars, or both.

§ 41k. **Misdemeanors in relation to elections.**—Any person who:

1. Acts as an inspector of election, poll clerk or ballot clerk, without being able to read and write the English language, or without being otherwise qualified to hold such office; or,
2. Being an inspector of election, knowingly and willfully permits or suffers any person to vote who is not entitled to vote thereat; or,
3. Willfully and unlawfully obstructs, hinders or delays, or aids or assists in obstructing or delaying any elector on his way to a registration or polling place, or while he is attempting to register or vote; or,
4. Electioneers on election day within a polling place, or in a public street or in a building or room, unless such building or room has been maintained for such purpose for at least six months previous to said election day, or in any public manner within one hundred feet of a polling place; or displays any political poster or placard, except those lawfully provided, in or upon any building used for registration or election purposes during any day for registration or election; or,

5. Removes any official ballot from a polling place before the closing of the polls; or

6. Unlawfully goes within the guard-rail of any polling place or unlawfully remains within such guard-rail after having been commanded to remove therefrom by any inspector of election; or,

7. Enters a voting booth with any voter or remains in a voting booth while it is occupied by any voter, or opens the door of a voting booth when the same is occupied by a voter, with the intent to watch such voter while engaged in the preparation of his ballot, except as authorized by the election law; or,

8. Being or claiming to be a voter, permits any other person to be in a voting booth with him while engaged in the preparation of his ballot, except as authorized by the election law, without openly protesting against and asking that such person be ejected; or,

9. Having lawfully entered a voting booth with a voter, requests, persuades or induces such voter to vote any particular ballot or for any particular candidate, or, directly or indirectly, reveals to another the name of any candidate voted for by such voter, or anything occurring within such voting booth; or,

10. Shows his ballot after it is prepared for voting, to any person so as to reveal the contents, or solicits a voter to show the same; or,

11. Places any mark upon his ballot, or does any other act in connection with his ballot with the intent that it may be identified as the one voted by him; or,

12. Places any mark upon, or does any other act in connection with a ballot or pasted ballot, with the intent that it may afterward be identified as having been voted by any particular person; or,

13. Receives an official ballot from any person other than one of the ballot clerks having charge of the ballots; or,

14. Not being a ballot clerk, delivers an official ballot to a voter; or,

15. Not being an inspector of election, receives from any voter a ballot prepared for voting; or,

16. Fails to return to the ballot clerks, before leaving the polling place or going outside the guard-rail, each ballot not voted by him; or,

17. Willfully disobeys any lawful command of the board of inspectors, or any member thereof, is guilty of a misdemeanor. This section shall apply to general and special elections, municipal elections and town meetings, but nothing therein shall prevent any person from receiving or delivering an unofficial sample ballot, or from receiving, delivering and voting an unofficial ballot as authorized by the election law.

§ 41l. **Voting after conviction of infamous crime.**—Any person who has been convicted of an infamous crime and has been sentenced or committed therefor to a state prison or penitentiary, who votes at any election unless he shall have been pardoned and restored to all the rights of a citizen, is guilty of a misdemeanor.

§ 41m. **Illegal voting.**—Any person who,

1. Knowingly votes or offers to vote at any election or town meeting, when not qualified; or,

2. Procures, aids, assists, counsels or advises any person to go or come

into any town, ward or election district, for the purpose of voting at any election or town meeting, knowing that such person is not qualified; or,

3. Votes or offers to vote at an election or town meeting more than once; or votes or offers to vote at an election or town meeting under any other name than his own; or votes or offers to vote at an election or town meeting in an election district or place where he does not reside; or,

4. Procures, aids, assists, commands or advises another to vote or offer to vote at an election or town meeting, knowing that such person is not qualified to vote thereat; or,

5. Being an inhabitant of another state or country, votes or offers to vote at an election or town meeting in this state, is guilty of felony, punishable by imprisonment in a state prison not less than two, nor more than five years.

§ 41n. **False returns.**—An inspector or poll clerk of an election or town meeting, who intentionally makes, or attempts to make, a false canvass of the ballots cast thereat, or any false statement of the result of a canvass, though not signed by a majority of the inspectors, or any person who induces or attempts to induce any such inspector or clerk so to do, is guilty of a felony.

§ 41 o. **Furnishing money or entertainment to induce attendance at polls.**—Any person who, with the intent to promote the election of a person to an elective office:

1. Furnishes entertainment to the electors before or during an election or town meeting at which such person is a candidate; or,

2. Pays for, procures or engages to pay for such entertainment; or,

3. Furnishes money or other property, or engages to compensate any person for procuring the attendance of voters at the polls of such election or town meeting; or,

4. Contributes money for any other purpose than the printing and circulating of hand bills, books and other papers previous to an election or town meeting, or conveying electors to the polls, or music, or rent of halls, is guilty of a misdemeanor.

41p. **Giving consideration for franchise.**—Any person who directly or indirectly, by himself or through any other person:

1. Pays, lends or contributes, or offers or promises to pay, lend or contribute any money or other valuable consideration to or for any voter, or to or for any other person, to induce such voter to vote or refrain from voting at any election, or to induce any voter to vote or refrain from voting at such election, for any particular person or persons, or for or against any particular proposition submitted to voters, or to induce such voter, to come to the polls or remain away from the polls at such election, or to induce such voter to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such voter having voted or refrained from voting or having voted or refrained from voting for or against any particular person or for or against any proposition submitted to voters or having come to the polls or remained away from the polls at such election, or having placed or caused to be placed or refrained from placing or causing to be placed his name upon the registry of voters; or,

2. Gives, offers or promises any office, place or employment, or promises to procure or endeavor to procure any office, place or employment to or for any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting at any election, or to induce any voter to vote or refrain from voting at such election, for or against any particular person or persons, or for or against any proposition submitted to voters, or to induce any voter to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters; or,

3. Gives, offers or promises any office, place, employment or valuable thing as an inducement for any voter or other person to procure or aid in procuring either a large or a small vote, plurality or majority at any election district, or other political division of the state, for a candidate or candidates to be voted for at an election; or to cause a larger or smaller vote, plurality or majority to be cast or given for any candidate or candidates in one such district or political division than in another; or,

4. Makes any gift, loan, promise, offer, procurement or agreement as aforesaid to, for or with any person to induce such person to procure or endeavor to procure the election of any person or the vote of any voter at any election; or,

5. Procures or engages, or promises or endeavors to procure, in consequence of any such gift, loan, offer, promise, procurement or agreement, the election of any person, or the vote of any voter, at such election; or,

6. Advances or pays, or causes to be paid, any money or other valuable thing, to or for the use of any other person with the intent that the same, or any part thereof, shall be used in bribery at any election, or knowingly pays or causes to be paid any money or other valuable thing to any person in discharge or repayment of any money, wholly or in part expended in bribery at any election, is guilty of an infamous crime punishable by imprisonment for not less than three months nor more than one year, and in addition forfeits any office to which he may have been elected at the election with reference to which such offense was committed, and becomes incapable of holding any public office under the constitution and laws of this state for a period of five years after such conviction.

§ 41q. **Receiving consideration for franchise.**—Any person who, directly or indirectly, by himself or through any other person:

1. Receives, agrees or contracts for, before or during an election, any money, gift, loan or other valuable consideration, office, place or employment for himself or any other person, for voting or agreeing to vote, or for coming or agreeing to come to the polls, or for remaining away or agreeing to remain away from the polls, or for refraining or agreeing to refrain from registering as a voter, or for refraining or agreeing to refrain from voting, or for voting or agreeing to vote, or for refraining or agreeing to refrain from voting for or against any particular person or persons at any election, or for or against any proposition submitted to voters at such election; or,

2. Receives any money or other valuable thing during or after an election on account of himself or any other person having voted or refrained from voting at such an election, or having registered or refrained from registering as a voter, or on account of himself or any other person having voted or refrained from voting for or against any particular person at such elec-

tion, or for or against any proposition submitted to voters at such election, or on account of himself or any other person having come to the polls or remained away from the polls at such election, or having registered or refrained from registering as a voter, or on account of having induced any other person to vote or refrain from voting for or against any particular person or persons at such election, or for or against any proposition submitted to voters at such election, is guilty of an infamous crime, punishable by imprisonment for not less than three months, nor more than one year, and in addition shall be excluded from the right of suffrage for five years after such conviction; and the county clerk of the county in which such person is convicted shall transmit a certified copy of the record of conviction to the clerk of each county of the state, within ten days thereafter, which copy shall be filed in his office by each of said clerks.

§ 41r. **Testimony upon prosecution.**—A person offending against any provision of section forty-one-p or of section forty-one-q of this code is a competent witness against another person so offending and may be compelled to attend and testify on any trial, hearing or proceeding, or investigation in the same manner as any other person. The testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person testifying. A person testifying shall not thereafter be liable to indictment, prosecution or punishment for the offense with reference to which his testimony was given, and may plead or prove the giving of testimony accordingly, in bar of such an indictment or prosecution.

§ 41s. **Bribery or intimidation of elector in military service of United States.**—Any person who, directly or indirectly, by bribery, menace or other corrupt means, controls or attempts to control an elector of this state enlisted in the military service of the United States, in the exercise of his rights under the election law, or annoys, injures or punishes him for the manner in which he exercises such right, is guilty of a misdemeanor for which he may be tried at any future time when he may be found within this state; and upon conviction thereof shall thereafter be ineligible to any office therein.

§ 41t. **Duress and intimidation of voters.**—Any person or corporation who directly or indirectly:

1. Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting at any election or to vote or refrain from voting for or against any particular person or persons or for or against any proposition submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed, his name upon a registry of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or having registered or refrained from registering as a voter; or,

2. By abduction, duress or any forcible or fraudulent device or contrivance whatever impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any voter, or compels, induces or prevails upon



any voter to give or refrain from giving his vote for or against any particular person at any election; or,

3. Being an employer pays his employes the salary or wages due in "pay envelopes," upon which there is written or printed any political motto, device or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employes, or within ninety days of a general election puts or otherwise exhibits in the establishment or place where his employes are engaged in labor, any hand bill or placard containing any threat, notice or information that if any particular ticket or candidate is elected or defeated, work in his place or establishment will cease, in whole or in part, his establishment be closed up, or the wages of his employes reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his employes, is guilty of a misdemeanor, and if a corporation shall in addition forfeit its charter.

The said title is hereby amended by inserting therein a new section to be known as section forty-one-u, which shall read as follows:

§ 41u. **Political assessments.**—Any two or more persons who conspire to promote or prevent the election of any person or persons to a public office by the use of any means which are prohibited by law, shall be punishable by imprisonment for not less than six months nor more than one year; provided, any act besides such agreement be done to effect the object thereof by one or more of the parties to such conspiracy.

§ 41v. **Same.**—Any person who:

1. Being an officer or employe of the state, or of a political subdivision thereof, directly or indirectly uses his authority or official influence to compel or induce any other officer or employe of the state or a political subdivision thereof, to pay or promise to pay any political assessments; or,

2. Being an officer or employe of the state, or of a political subdivision thereof, directly or indirectly, gives, pays or hands over to any other such officer or employe any money or other valuable thing on account of or to be applied to the promotion of his election, appointment or retention in office, or makes any promise, or gives any subscription to such officer or employe to pay or contribute any money or other valuable thing for any such purpose or object; or

3. Being such an officer or employe and having charge or control of any building, office or room occupied for any purpose of the state or of a political subdivision thereof, consents that any person enter the same for the purpose of making, collecting, receiving or giving notice of any political assessment; or

4. Enters or remains in any such office, building or room, or sends or directs any letter or other writing thereto, for the purpose of giving notice of demanding or collecting, or being therein, gives notice of, demands, collects or receives, any political assessment;

5. Prepares or makes out, or takes any part in preparing or making out, any political assessment, subscription or contribution, with the intent that the same shall be sent or presented to or collected of any such officer or employe; or

6. Sends or presents any political assessment, subscription, or contribution to, or requests its payment of, any such officer or employe,

Is guilty of a misdemeanor.

§ 41w. **Corrupt use of position or authority.**—Any person who,

1. While holding a public office, or being nominated or seeking a nomination or appointment therefor, corruptly uses or promises to use, directly or indirectly, any official authority or influence possessed or anticipated, in the way of conferring upon any person, or in order to secure, or aid any person in securing, any office or public employment, or any nomination, confirmation, promotion or increase of salary, upon consideration that the vote or political influence or action of the person so to be benefited or of any other person, shall be given or used in behalf of any candidate, officer or party or upon any other corrupt condition or consideration; or

2. Being a public officer or employe of the state or a political subdivision having, or claiming to have, any authority or influence affecting the nomination, public employment, confirmation, promotion, removal, or increase or decrease of salary of any public officer or employe, or promises or threatens to use, any such authority or influence, directly or indirectly to affect the vote or political action of any such public officer or employe, or on account of the vote or political action of such officer or employe; or

3. Makes, tenders or offers to procure, or cause any nomination or appointment for any public office or place, or accepts or requests any such nomination or appointment, upon the payment or contribution of any valuable consideration, or upon an understanding or promise thereof, or

4. Makes any gift, promise or contribution to any person, upon the condition or consideration of receiving an appointment or election to a public office or a position of public employment, or for receiving or retaining any such office or position, or promotion, privilege, increase of salary or compensation therein, or exemption from removal or discharge therefrom, is punishable by imprisonment for not more than two years or by a fine of not more than three thousand dollars or both.

§ 41x. **Failure to file candidate's statement of expenses.**—Every candidate who is voted for at any public election held within this state shall, within ten days after such election, file as hereinafter provided an itemized statement showing in detail all the moneys contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Such statement shall give the names of the various persons who received such moneys, the specific nature of each item, and the purpose for which it was expended or contributed. There shall be attached to such statement an affidavit subscribed and sworn to by such candidate, setting forth in substance that the statement thus made is in all respects true, and that the same is a full and detailed statement of all moneys so contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Candidates for offices to be filled by the electors of the entire state, or any division or district thereof greater than a county, shall file their statements in the office of secretary of state. The candidates for town, village and city offices, excepting in the city of New York shall file their statements in the office of the town, village or city clerk, respectively, and in cities wherein there is no city clerk, with the clerk of

the common council of the city wherein the election occurs. Candidates for all other offices, including all officers in the city and county of New York, shall file their statements in the office of the clerk of the county wherein the election occurs. Any candidate for office who refuses or neglects to file a statement as prescribed in this section shall be guilty of a misdemeanor, and shall also forfeit his office.

**§ 41x. Procuring fraudulent certificates in order to vote.**—Any person who knowingly and willfully procures from any court, judge, clerk or other officer, a certificate of naturalization, which has been allowed, issued, signed or sealed in violation of the laws of the United States or of this state, with intent to enable himself or any other person to vote at any election when he or such person is not entitled by the laws of the United States to become a citizen or to exercise the elective franchise is guilty of a felony.

**§ 41y. Presenting fraudulent certificates to registry boards to procure registration.**—A person who knowingly and willfully presents to any board of officers, for the purpose of having himself or any other person placed upon any list or registry of voters, or to any board of officers for the purpose of enabling himself or any other person to vote at any election, any certificate of naturalization which has been allowed or issued by or procured from any judicial officer, clerk of a court, or other ministerial officer of a court, by any false statement, oath or representation, or in violation of the laws of the United States or of this state, with intent to enable any person to vote at any election, when such person is not entitled by the laws of the United States to become a citizen, or of this state, to exercise the elective franchise, is guilty of a felony.

**§ 41z. Soliciting from candidates.**—Any person who solicits from a candidate for an elective office money or other property, or who seeks to induce such candidate who has been placed in nomination to purchase any ticket, card or other evidence of admission to any ball, picnic, fair or entertainment of any kind, is guilty of a misdemeanor; but this section shall not apply to a request for a contribution of money by an authorized representative of the political party, organization or association to which such candidate belongs.

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**FORM NO. 33.**

(See § 87, Election Law.)

**Town clerk's or city clerk's receipt for official ballots received from county clerk.**

Received of	, clerk of	county,
One package containing	official ballots.	
One package containing	sample ballots.	
One package containing	poll books.	
One package containing	distance marks.	
One package containing	stationery.	
Dated		

(Signed)

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*Town (or city) Clerk.*

**FORM NO. 34.**

(See § 27, Election Law.)

**Election inspectors' receipt for official ballots received from town or city clerk.**

Received of	, (city or town) clerk,
One package containing	official ballots.
One package containing	sample ballots.
One package containing	poll books.
One package containing	distance markers.
One package containing	stationery.
Dated	.

(Signed)

\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_,  
*Inspectors of Election,*  
*Election District No. — (Town or City).*

**ARTICLE V.****Conduct of Elections and Canvass of Votes.****SECTION 100. Opening the polls.**

101. Persons within the guard rail.
102. Watchers; challengers, electioneering.
103. General duties of election officers.
104. Delivery of ballots to electors.
105. Preparation of ballots by electors.
106. Manner of voting.
107. When unofficial ballots may be voted.
108. Challenge and oaths.
109. Time allowed employes to vote.
110. Method of canvass.
111. Original statement of canvass and certified copies.
112. Proclamation of result.
113. Delivery and filing of papers relating to the election.
114. Judicial investigation of ballots.

§ 100. **Opening the polls.**— The inspectors of election, poll clerks and ballot clerks of each election district shall meet at the polling place therein at least one-half hour before the time set for opening the polls at each election for which official ballots are required to be provided, and shall proceed to arrange the space within the guard rail and the furniture thereof, including the voting booths, for the orderly and legal conduct of the election. The inspectors of election shall then and there have the ballot boxes required by law for the reception of ballots to be voted thereat; the box for the reception of ballots found to be defective in printing or mutilated, before delivery to, and ballots spoiled and returned by electors; the box for the stubs of voted and spoiled ballots, the sealed packages of official ballots, sample ballots and instruction cards and distance markers, poll books, tally-sheets, return sheets and other stationery required to be delivered to them for such election; and if it be an election at which registered electors only can vote, the register of such electors required to be made and kept therefor. The inspectors shall thereupon open the sealed packages of instruction cards and cause them to be posted conspicuously, at least one, and if printed in different languages, at least one of each language, in each of the voting booths of such polling place, and at least three

of each language in which they are printed in or about the polling place; shall open the sealed packages of official ballots and sample ballots, and place them in charge of the ballot clerks, and shall place the poll-books in charge of the poll clerks, and shall cause to be placed at a distance of one hundred feet from the polling place the visible markers designated herein as "distance markers," to prohibit "loitering or electioneering" within such distance. They shall also, before any ballots are cast, see that the voting booths are supplied with pencils having black lead only, unlock the ballot boxes, see that they are empty, allow the watchers present to examine them, and shall lock them up again while empty in such manner that the watchers present and persons just outside the guard-rail can see that such boxes are empty when they are relocked. After such boxes are so relocked they shall not be unlocked or opened until the closing of the polls of such election, and, except as authorized by law, no ballots or other matter shall be placed in them after they are so relocked and before the announcement of the result of such canvass and the signing of the original statement of canvass and the two certified copies thereof. The instruction cards and distance markers posted as provided by law shall not be taken down, torn nor defaced during such election. The ballot clerks, with the official and sample ballots; the inspectors, with such boxes and register of electors, and the poll clerks, with their poll-books, shall be stationed as near each other as practicable within such inclosed space. One of the inspectors shall then make proclamation that the polls of the election are open, and of the time o'clock in the afternoon when the polls will be closed.

[For Form of Proclamation, see Form No. 36, page 149.]

#### **MISCELLANEOUS PROVISIONS RELATING TO OPENING OF POLLS.**

**Election officers to take additional oath before opening of polls.** (*See subd. 2, § 104, Election Law, and Form for Additional Oath, Form No. 35, page 149.*)

**Time of opening and closing polls.**—Unless otherwise provided by law, the polls shall open at six o'clock in the forenoon and shall close at six o'clock in the afternoon. There shall be no adjournment or intermission until the polls are closed. (*See § 3, Election Law.*)

**Meeting of inspectors and poll clerks before opening of polls when Myers ballot machines are used.**—"The inspectors and poll clerks shall meet at their respective polling places in each election district forty minutes before the time designated for the opening of the polls." (*See* § 11, *chap.* 163, *L.* 1896.)

**Meeting of inspectors and poll clerks before opening of polls when Davis ballot machine is used.**—"The inspectors and poll clerks shall meet at their respective polling places in each election district thirty minutes before the time of opening of the polls therein." (*See* § 9, *chap.* 339, *L.* 1896.)

**Removal, mutilation or destruction of election supplies, poll-lists or cards of instruction.**—"Any person who :

"1. During an election or town meeting, willfully defaces or injures a voting booth or compartment, or willfully removes or destroys any of the supplies or other conveniences placed in the voting booths or compartments in pursuance of law; or,

"2. Before the closing of the polls, willfully defaces or destroys any list of candidates to be voted for at such election or town meeting, posted in accordance with the election law; or,

"3. During an election or town meeting, willfully removes or defaces the cards for the instruction of voters, posted in accordance with the election law, is guilty of a misdemeanor." (§ 41e, *Penal Code, as amended in 1894.*)

§ 101. **Persons within the guard-rail.**—From the time of the opening of the polls until the announcement of the result of the canvass of the votes cast thereat, and the signing of the official returns or statements of such canvass and the copies thereof, the boxes and all official ballots shall be kept within the guard-rail. No person shall be admitted within the guard-rail during such period, except inspectors, poll clerks, ballot clerks, duly authorized watchers, persons admitted by the inspectors to preserve order or enforce the law, persons duly admitted for the purpose of voting; provided, however, that candidates for public office voted for at such polling place may be present at the canvass of the votes.

**Unlawful presence within guard-rail.**—"Any person who \* \* \* unlawfully goes within the guard-rail of any polling-place or unlawfully remains within such guard-rail after having been commanded to remove therefrom by any inspector of election; or, \* \* \* is guilty of a misdemeanor." (§ 41h, *subd.* 6, *Penal Code.*)

§ 102. **Watchers; challengers; electioneering.**—Each political party or independent body duly filing certificates of nomination of candidates for offices to be filled at any such election, may, by a writing signed by the duly authorized

county, city, town, or village committee of such political party or independent body, or by the chairman or secretary thereof charged with that duty and delivered to one of the inspectors of election, appoint not more than two watchers to attend each polling place thereof. Such committee, chairman or secretary thereof for a city, county, town or village shall not appoint watchers for any polling place outside of such city, county, town or village, respectively. Such watchers may be present at such polling place, and within the guard-rail, from at least fifteen minutes before the unlocking and examination of any ballot box at the opening of the polls of such election until after the announcement of the result of the canvass of the votes cast thereat, and the signing of the original statement of canvass and copies thereof by the inspectors. A reasonable number of challengers, at least one person of each such party or independent body, shall be permitted to remain just outside the guard-rail of each such polling place, and where they can plainly see what is done within such rail outside the voting booths, from the opening to the close of the polls thereat. No person shall, while the polls are open at any polling place, do any electioneering within such polling place, or within one hundred feet therefrom, in any public street, or in any building or room or in a public manner, and no political banner, poster or placard shall be allowed in or upon such polling place during any day of registration or of the election.

[For Form of Appointment of Watchers, see Form No. 37, page 149.]

**Unlawful electioneering, displaying of political posters, etc., at poll.** — "Electioneers on election day within a polling place, or in a public street or in a building or room, unless such building or room has been maintained for such purpose for at least six months previous to said election day, or in any public manner within one hundred feet of a polling place; or displays any political poster or placard, except those lawfully provided, in or upon any building used for registration or election purposes during any day for registration or election; or, \* \* \* is guilty of a misdemeanor." (§ 41*h*, *subd. 4*, *Penal Code*, as amended by *chap. 549*, *L. 1896*.)

**Misconduct of election officers and watchers.** — "Any election officer or watcher who:

"1. Reveals to another person the name of any candidate for whom a voter has voted; or,



" 2. Communicates to another person his opinion, belief or impression as to how or for whom a voter has voted ; or,

" 3. Places a mark upon a ballot, or does any other act by which one ballot can be distinguished from another, or can be identified ; or,

" 4. Before the closing of the polls, unfolds a ballot which a voter has prepared for voting, is punishable by imprisonment for not less than six months nor more than one year." (§ 411, *Penal Code, as amended in 1894.*)

§ 103. **General duties of election officers.**—Subdivision 1. One of the inspectors of election at each polling place shall be designated by the board of inspectors of election to receive the ballots from the electors voting ; or if the majority of the inspectors shall not agree to such designation, they shall draw lots for such position. If it be an election for which electors are required to be registered, the other inspectors shall before any ballots are delivered by the ballot clerks to an elector, ascertain whether he is duly registered. The ballot clerks shall not deliver any ballot to such elector until the inspectors announce that he is so registered. As each elector votes, the inspectors shall check his name upon such register and shall enter therein in the column provided therefor opposite the name of such elector, the consecutive number upon the stub of the ballot or set of ballots voted by him. The inspector shall forthwith upon detaching the stub from any official ballot deposit the same in the box provided for detached stubs. In all proceedings of the inspectors acting as registrars, inspectors or canvassers, they shall act as a board, and, in case of a question arising, as to matters which may call for a determination by them, a majority of such board shall decide.

Subdivision 2. In addition to the duties hereinbefore enjoined upon them, the ballot clerks shall deliver official ballots to the electors in such order that the numerical order of the numbers printed on the stubs of the ballots so delivered, shall be the same as the order of the successive deliveries thereof, the ballot numbered one on the stubs being first delivered and so on. If, in addition to the general ballots there shall be a ballot containing a proposed constitutional amendment or other proposition or question, the ballots shall be delivered to the electors in such order that the numbers upon the stubs of both ballots so delivered shall be the same. If, in a case where more than one ballot is to be voted, the elector

shall spoil one of a set of ballots, and shall be entitled to receive a new set under the provisions of this act, he shall return the spoiled set to the ballot clerks before new ballots are furnished to him. In case one of a set of ballots bearing the same number shall be found defective in printing or mutilated before the same is given to the elector, both ballots of that number shall have the stubs removed therefrom by the ballot clerks and such ballots shall be deposited in the box for spoiled and mutilated ballots, and the stubs in the box for detached stubs, and a memorandum shall be made by the ballot clerks of the number on such ballots and the fact that the set was not delivered to electors because defective in printing or mutilated. The ballot clerks shall, upon the delivery of official ballots to each elector, announce the elector's name and the number printed on the stub of each ballot so delivered. Upon the return of a ballot or set of ballots to them invited by any elector, they shall announce the name of the elector returning them and the printed number on the stubs of the ballots so returned, and shall at once remove the stubs from such returned ballots and deposit such stubs in the box for detached stubs, and such ballots in the box for spoiled and mutilated ballots. A memorandum shall be made by them of the number on such ballots, and of the fact that they were returned spoiled by electors. They shall immediately upon the closing of the polls take from the box containing them the spoiled and mutilated ballots, and after comparing the number thereof with the record of the same, made during the day, shall destroy them; and shall hereupon prepare and sign a written statement or return of ballots in the form provided for in section eighty-four of the election law. The original statement so made by them shall be attached to the original statement of the canvass made by the board of inspectors and a copy thereof to each copy of such original statement of canvass. They shall inclose all unused ballots, and all detached stubs, in a sealed package, and deliver the same to the chairman of the board of inspectors.

[For Form for Ballot Clerks' Return see § 84, page 95; also Form No. 38, page 150.]

Subdivision 3. Each poll clerk at each polling place for which official ballots are required to be provided, shall have a

poll-book for keeping the list of electors voting or offering to vote thereat at the election. Such book shall have six columns headed respectively, "Number of elector," "Names of electors," "Residence of electors," "Number of ballots delivered to electors," "Number of ballots voted," and "Remarks." Upon each delivery of an official ballot or set of official ballots by the ballot clerks to an elector, each poll clerk shall enter upon his poll-book in the appropriate column, the number of the elector, in the successive order of the delivery of ballots thereto, the name of the elector, in the alphabetical order of the first letter of his surname, his residence by street and number, or if he have no street number, a brief description of the locality thereof, the printed number upon the stub of the ballots delivered to such elector, and the number on the ballots voted by him. If the ballot or set of ballots delivered to any elector shall be returned by him to the ballot clerk, and he shall obtain a new ballot or set of ballots, the poll clerks shall write opposite his name on the poll-books, in the proper column, the printed number on the stubs of such ballot or additional set of ballots. Each poll-clerk shall make a memorandum upon his poll-book opposite the name of each person who shall have been challenged and taken either of the oaths prescribed upon such challenge, or who shall have received assistance in preparing his ballot and shall also enter upon the poll-book opposite the name of such person the names of the election officers or persons who render such assistance, and the cause or reason assigned for such assistance by the elector assisted. As each elector offers his ballot or set of ballots which he intends to vote to the inspector, each poll-clerk shall report to the inspectors whether the number entered on the poll-book kept by him as the number on the ballot or set of ballots last delivered to such elector, is the same as the number on the stub of the ballot or set of ballots so offered. As each elector votes, each poll clerk shall enter in the proper column on his poll-book the number on the stub of the ballots voted. Upon the close of the polls of the election, the poll clerks and inspectors shall compare the poll-books with the registers and correct any mistakes found therein. The poll clerks shall also during the canvass of the

votes, as prescribed by section one hundred and ten of the election law, make and complete the tally sheets of the votes in the form provided by section eighty-four of the election law.

**PENAL PROVISIONS RELATING TO ELECTIONS.**

**Misdemeanors in relation to elections.**— “ Any person who :

“ 1. Acts as an inspector of election, poll clerk or ballot clerk, without being able to read and write the English language, or without being otherwise qualified to hold such office ; or,

“ 2. Being an inspector of election, knowingly and willfully permits or suffers any person to vote who is not entitled to vote thereat ; or,

“ 3. Willfully and unlawfully obstructs, hinders or delays, or aids or assists in obstructing or delaying any elector on his way to a registration or polling place, or while he is attempting to register or vote ; or,

“ 4. Electioneers on election day within a polling place, or in a public street or in a building or room, unless such building or room has been maintained for such purpose for at least six months previous to said election day, or in any public manner within one hundred feet of a polling place ; or displays any political poster or placard, except those lawfully provided, in or upon any building used for registration or election purposes during any day for registration or election ; or,

“ 5. Removes any official ballot from a polling place before the closing of the polls ; or,

“ 6. Unlawfully goes within the guard-rail of any polling place or unlawfully remains within such guard-rail after having been commanded to remove therefrom by any inspector of election ; or,

“ 7. Enters a voting booth with any voter or remains in a voting booth while it is occupied by any voter, or opens the door of a voting booth when the same is occupied by a voter, with the intent to watch such voter while engaged in the preparation of his ballot, except as authorized by the election law ; or,

“ 8. Being or claiming to be a voter, permits any other person to be in a voting booth with him while engaged in the preparation of his ballot, except as authorized by the election law, without openly protesting against and asking that such person be ejected ; or,

“ 9. Having lawfully entered a voting booth with a voter, requests, persuades or induces such voter to vote any particular ballot or for any particular candidate, or, directly or indirectly, reveals to another the name of any candidate voted for by such voter, or anything occurring within such voting booth ; or,

“ 10. Shows his ballot after it is prepared for voting to any person so as to reveal the contents, or solicits a voter to show the same ; or,

“ 11. Places any mark upon his ballot, or does any other act in connection with his ballot with the intent that it may be identified as the one voted by him ; or,

" 12. Places any mark upon, or does any other act in connection with, a ballot or paster ballot, with the intent that it may afterwards be identified as having been voted by any particular person; or,

" 13. Receives an official ballot from any person other than one of the ballot clerks having charge of the ballots; or,

" 14. Not being a ballot clerk, delivers an official ballot to a voter; or,

" 15. Not being an inspector of election, receives from any voter a ballot prepared for voting; or,

" 16. Fails to return to the ballot clerks, before leaving the polling place or going outside the guard-rail, each ballot not voted by him; or,

" 17. Willfully disobeys any lawful command of the board of inspectors, or any member thereof, is guilty of a misdemeanor. This section shall apply to general and special elections, municipal elections and town meetings, but nothing therein shall prevent any person from receiving or delivering an unofficial sample ballot, or from receiving, delivering and voting an unofficial ballot as authorized by the election law." (§ 41*k*, *Penal Code*, as amended in 1894.)

**Misconduct of election officers and watchers.**—"Any election officer or watcher who:

" 1. Reveals to another person the name of any candidate for whom a voter has voted; or,

" 2. Communicates to another person his opinion, belief or impressions as to how or for whom a voter has voted; or,

" 3. Places a mark upon a ballot, or does any other act by which one ballot can be distinguished from another, or can be identified; or,

" 4. Before the closing of the polls, unfolds a ballot which a voter has prepared for voting, is punishable by imprisonment for not less than six months nor more than one year." (§ 41*i*, *Penal Code*, as amended in 1894.)

**Neglect of duty, false canvass, etc., by election officers.**—"Being an officer, teller or canvasser thereof, willfully omits, refuses or neglects to do any act required by the election law, or refuses to permit any person to do any act authorized thereby, or makes or attempts to make any false canvass of the ballots cast at such caucus or convention or statement of the result of a canvass of the ballots cast thereat; or, \* \* \* is guilty of a misdemeanor punishable by imprisonment for not more than one year." (*Subd. 4*, § 41, *Penal Code*.)

**Violation of election law by public officer.**—"A public officer who omits, refuses or neglects to perform any act required of him by the election law, or refuses to permit the doing of any act authorized thereby, is, if not otherwise provided by law, punishable by imprisonment for not more than three years, or by a fine of not more than three thousand dollars, or both." (§ 41*j*, *Penal Code*.)

**Conspiring to promote or prevent election of persons.**—"Any two or more persons who conspire to promote or prevent the election of any person or persons to a public office by the use of any means which are prohibited by law, shall be punishable by imprisonment for not less than six

months nor more than one year; provided, any act besides such agreement be done to effect the object thereof by one or more of the parties to such conspiracy." (§ 414, *Penal Code*.)

**Inspectors of election have equal power** one with another. (*People v. Van Slyck*, 4 Cow. 297.)

**Inspectors of election are merely ministerial officers.** (*People v. Pease*, 27 N. Y. 45; *Goetcheus v. Matthewson*, 61 id. 420; *People ex rel. Stapleton v. Bell*, 119 id. 175; *People ex rel. Sherwood v. Board*, 129 id. 372; *Matter of Hamilton*, 80 Hun, 511; *People v. Van Slyck*, 4 Cow. 297.)

§ 104. **Delivery of ballots to electors.**—Subdivision 1. While the polls of the election are open, the electors entitled to vote and who have not previously voted thereat, may enter within the guard-rail at the polling place of such election for the purpose of voting, in such order that there shall not at any time be within such guard-rail more than twice as many electors as there are voting booths thereat, in addition to the persons lawfully within such guard-rail for other purposes than voting. The elector shall enter within the guard-rail through the entrance provided, and shall forthwith proceed to the inspectors and give his name, and, if in a city or village of five thousand inhabitants or over, his residence by street and number, or if it have no street number, a brief description of the locality thereof, and if required by the inspectors shall state whether he is over or under twenty-one years of age. One of the inspectors shall thereupon announce the name and residence of the elector in a loud and distinct tone of voice. No person shall be allowed to vote in any election district at any election where electors are required to be registered unless his name shall be upon the registration books of such election district. The right of any person to vote, whose name is on such register, shall be subject to challenge. If such elector is entitled to vote thereat, and is not challenged, or if challenged and the challenge be decided in his favor, one of the ballot clerks shall then deliver to him one official ballot or a set of official ballots, folded by such ballot clerk in the proper manner for voting, which is: First, by bringing the bottom of the ballot up to the perforated line, and second by folding both sides to the center, or towards the center, in such manner that when folded the face of each ballot shall be concealed, and the printed number on the stub and the indorsement on the back of the ballot shall be visible, so the stub can be removed

without removing any other part of the ballot, and without exposing any part of the face of the ballot below the stub, and so that when folded the ballot shall not be more than four inches wide. No person other than an inspector or ballot clerk shall deliver to any elector within such guard-rail any ballot, and they shall deliver only such ballots as the voter is legally entitled to vote, and also the sample ballot when the same is asked for.

**Delivery of ballots to voter by persons not ballot clerks.**—"Any person who not being a ballot clerk, delivers an official ballot to a voter; or, \* \* \* is guilty of a misdemeanor." (*Subd. 14, § 41k, Penal Code.*)

Subdivision 2. Any elector who shall, at the time of registration, have made oath of physical disability or illiteracy, as prescribed by the third subdivision of section thirty-four of the election law; or, who being duly registered, in an election district where personal registration by all electors is required by law, shall state under oath, to the inspectors of election, on the day of election, that, by reason of some accident the time and place of which he must specify, or of disease, the nature of which he must also specify, he has since the day upon which he registered, lost the use of both hands, or become totally blind, or afflicted by such degree of blindness as will prevent him, with the aid of glasses, from seeing the names printed upon the official ballot, or so crippled that he cannot enter the voting booth and prepare his ballot without assistance; or any elector in an election district who is not required by law to personally register, who is unable to write by reason of illiteracy, or is physically disabled in one or more ways described in the third subdivision of section thirty-four of the election law, and who shall make the statement under oath to the inspectors in the form required in said subdivision, may choose two of the election officers, both of whom shall not be of the same political faith, to enter the booth with him, to assist him in preparing his ballots. At any town meeting or village election, where the election officers are all of the same political faith, any elector entitled to assistance as herein provided may select one of such election officers and one elector of such town or village of opposite political faith from such election officer so selected, to render such

assistance. Such election officers or persons assisting an elector shall not in any manner request or seek to persuade or induce any such elector to vote any particular ticket, or for any particular candidate, and shall not keep or make any memoranda or entry of any thing occurring within such booth, and shall not, directly or indirectly, reveal to any other person the name of any candidate voted for by such elector, or which ticket he has voted, except they be called upon to testify in a judicial proceeding for a violation of this act, and each election officer, before the opening of the polls for the election, shall make oath that he "will not in any manner request, or seek to persuade, or induce any elector to vote any particular ticket or for any particular candidate, and that he will not keep or make any memoranda or entry of anything occurring within the booth, and that he will not, directly or indirectly, reveal to any person the name of any candidate voted for by any elector or which ticket he has voted, or anything occurring within the polling booth, except he be called upon to testify in a judicial proceeding for a violation of the election law." The same oath shall be taken by any elector rendering such assistance, as provided for above, and any violation of this oath shall be a felony punishable upon conviction by imprisonment in a state prison for not less than two nor more than ten years. No elector shall otherwise ask or receive the assistance of any person within the polling place in the preparation of his ballot, or divulge to anyone within the polling place the name of any candidate for whom he intends to vote or has voted.

[For Forms for Oaths of Electors and Report of Inspectors as to Assisted Electors, see Forms Nos. 40, 41, 44, 45, 46, pages 151, 154, 155.]

**Penalty for inducing elector to vote particular ballot and revealing vote.**—"Any person who \* \* \* having lawfully entered a voting booth with a voter, requests, persuades or induces such voter to vote any particular ballot or for any particular candidate, or, directly or indirectly, reveals to another the name of any candidate voted for by such voter, or anything occurring within such voting booth; or, \* \* \* is guilty of a misdemeanor." (*Subd. 9, § 41k, Penal Code.*)

**Elector taking oath entitled to assistance.**—"A voter taking the physical disability oath is entitled to the assistance provided." (*Opinion Attorney-General.*)

**Inspectors not judges of kind or extent of disability.**—"The inspectors of election do not seem to be made, in any way by this statute, the



judges of the kind or extent of the 'physical disability' with which the voter is inflicted.

"The voter himself must, however, declare, under oath, that by reason thereof 'he is unable to prepare his ballot without assistance.' This is quite analogous to the requirements of the general election laws of the state, that the voter when challenged may take the 'general oath,' and if he persists in his claim to vote, the court of appeals has held that it is imperative on the inspectors to receive the vote and deposit the same in the ballot box. (*See People v. Pease*, 27 N. Y. 53; *Goetcheus v. Matthewson et al.*, 61 id. 420.)

"The statutory provision cited is a new one, but the question suggested is one frequently asked and will necessarily arise before the inspectors of election on election day, and while the construction above indicated may not be entirely free from doubt, yet after the best consideration which I have been able to give the matter I am of the opinion that the statute will be complied with, if the voter so insists, by taking the oath provided.

"The voter must, however, see to it that this declaration is not false, in fact, for if it is he is liable to be prosecuted for perjury; and while we may admit that the inspectors would have no right to inquire into the truth or falsity of the voter's declaration, no such objection exists to the qualifications or authority of a grand jury to make this inquiry." (*Opinions Attorney-General.*)

**§ 105. Preparation of ballots by electors.**—On receiving his ballot the elector shall forthwith and without leaving the inclosed space, retire alone to one of the voting booths, and without undue delay, unfold and mark his ballot as hereafter described. No elector shall be allowed to occupy a booth already occupied by another, or to occupy a booth more than five minutes in case all the booths are in use and electors waiting to occupy the same. It shall not be lawful to mark upon the official ballot other than the cross X mark used for the purpose of voting, with a pencil having black lead, and that only in the circles or in the voting spaces to the left of the names of candidates, or to write anything thereon other than the name or names of persons not printed upon the ballot for whom the elector desires to vote in the blank column under the proper title of the office; nor shall it be lawful to deface or tear a ballot in any manner, nor to erase any printed device, figure, letter or word therefrom, nor to erase any name or mark written thereon by such elector. Any ballot upon which there shall be found any mark other than the cross X mark used for the purpose of voting, or a name or names written

otherwise than as heretofore provided, and any ballot which shall be found to be defaced or torn, or from which there shall have been erased any device, figure, letter or word, or which shall have been marked or written upon other than by a pencil having black lead, shall be wholly void and no vote thereon shall be counted. If an elector deface or tear a ballot or one of a set of ballots, or wrongly marks the same, he may successively obtain others, one set at a time, not succeeding in all three sets, upon returning each set of ballots so defaced or wrongly marked to the ballot clerks. The elector shall observe the following rules in marking his ballots:

1. If the elector desires to vote a straight ticket, that is, for each and every candidate of one party for whatever office nominated, he shall make a cross X mark in the circle above the name of the party at the head of the ticket.

2. If the elector desires to vote a split ticket, that is, for candidates of different parties, he must not make a cross X mark in the circle above the name of any party, but shall make a cross X mark in the voting space before the name of each candidate for whom he desires to vote on whatever ticket he may be.

If the ticket marked in the circle for a straight ticket, does not contain the names of candidates for all offices for which the elector may vote, he may vote for candidates for such offices so omitted by making a cross X mark before the names of candidates for such offices on other tickets, or by writing the names, if they are not printed upon the ballot, in the blank column under the title of the office. If the elector desires to vote for any person whose name does not appear upon the ballot, he can so vote by writing the name with a pencil having black lead in the proper place in the blank column. The elector can vote blank for any office by omitting to make a cross X mark in any circle, and by making a cross X mark in the voting space before the name of every candidate he desires to vote for, except for the office for which he desires to cast a blank vote. In the case of a question submitted, the elector shall make a cross X mark in the blank square space on the right of and after the answer "Yes" or "No," which he desires to give on each such question sub-

mitted. One straight line crossing another straight line at any angle within a circle, or within the voting spaces, shall be deemed a valid voting mark.

[For Illustration Showing how to Mark Tickets, see Forms Nos. 42, 43, pages 152, 153.]

**Penalty for certain acts in connection with preparation of votes.—**

"7. Enters a voting booth with any voter or remains in a voting booth while it is occupied by any voter, or opens the door of a voting booth when the same is occupied by a voter, with the intent to watch such voter while engaged in the preparation of his ballot, except as authorized by the election law; or,

"8. Being or claiming to be a voter, permits any other person to be in a voting booth with him while engaged in the preparation of his ballot, except as authorized by the election law, without openly protesting against and asking that such person be ejected; or, \* \* \*

"10. Shows his ballot after it is prepared for voting, to any person so as reveal the contents, or solicits a voter to show the same; or,

"11. Places any mark upon his ballot, or does any other act in connection with his ballot with the intent that it may be identified as the one voted by him; or,

"12. Places any mark upon, or does any other act in connection with a ballot or paster ballot, with the intent that it may afterward be identified as having been voted by any particular person; or,

"13. Receives an official ballot from any person other than one of the ballot clerks having charge of the ballots; or, \* \* \*

"16. Fails to return to the ballot clerks, before leaving the polling place or going outside the guard-rail, each ballot not voted by him; or,

"17. Willfully disobeys any lawful command of the board of inspectors, or any member thereof, is guilty of a misdemeanor." (*Extracts from § 41k, Penal Code.*)

**Elector may vote for any person or make up a new ticket.**—The ballot law was not intended to restrict the choice of the people. The voter may vote for any person for any office. He may make up an entire new ticket. (*People ex rel. Bradley v. Shaw*, 45 N. Y. St. Repr. 533.)

**Elector to comply with requirements.**—The right to vote, secured to the citizen by the constitution, must be exercised in the manner and subject to the regulations lawfully prescribed by the legislature in respect to the time when and the method by which his will is expressed; and, in order to render his will and intention effectual at the election, he must comply with at least all the substantial requirements of the law. (*People ex rel. Sherman v. Person*, 45 N. Y. St. Repr. 528; *People ex rel. Nichols v. Board of Canvassers*, 129 N. Y. 395, 401.)

**Writing name of candidate upon ballot.**—The voter is warranted in writing upon an official ballot, from which the name of an office has been omitted by clerical mistake or otherwise, the name of the office and the person whom he desires to vote for as the incumbent thereof. (*People ex rel. Goring v. President*, 144 N. Y. 616.)

**Absence of the name of a candidate from an official ballot** will not deprive the elector of voting for such candidate. (*People ex rel. Goring v. President, etc.*, 144 N. Y. 616; *Montgomery v. O'Dell*, 51 N. Y. St. Repr. 444.)

§ 106. **Manner of voting.**—When the ballot or ballots which an elector has received shall be prepared as provided in section one hundred and five of this act, he shall leave the voting booth with his ballot folded so as to conceal the face of the ballot, but show the indorsement and fac simile of the signature of the official on the back thereof, and, keeping the same so folded, shall proceed at once to the inspector in charge of the ballot box, and shall offer the same to such inspector. Such inspector shall announce the name of the elector and the printed number on the stub of the official ballot so delivered to him in a loud and distinct tone of voice. If such elector be entitled then and there to vote, and be not challenged, or if challenged, and the challenge be decided in his favor, and if his ballot or ballots are properly folded, and have no mark or tear visible on the outside thereof, except the printed number on the stub and the printed indorsement on the back, and if such printed number is the same as that entered on the poll-books as the number on the stub or stubs of the official ballot or set of ballots last delivered to him by the ballot clerks, such inspector shall receive such ballot or ballots, and after removing the stub or stubs therefrom, in plain view of the elector, and without removing any other part of the ballot, or in any way exposing any part of the face thereof below the stub, shall deposit each ballot in the proper ballot box for the reception of voted ballots; and the stubs in the box for detached ballot stubs. Upon voting, the elector shall forthwith pass outside the guard-rail unless he be one of the persons authorized to remain within the guard-rail for other purposes than voting. No ballot without the official indorsement shall be allowed to be deposited in the ballot box except as provided by sections eighty-nine and one hundred and seven of the election law, and none but ballots provided in accordance with the provisions of the election law shall be counted. No official ballot folded shall be unfolded outside the voting booth. No person to whom any official ballot shall be delivered shall leave the space within the

guard-rail until after he shall have delivered back all such ballots received by him either to the inspectors or to the ballot clerks, and a violation of this provision is a misdemeanor. When a person shall have received an official ballot from the ballot clerks or inspectors, as hereinbefore provided, he shall be deemed to have commenced the act of voting, and if, after receiving such official ballot, he shall leave the space inclosed by the guard-rail before the deposit of his ballot in the ballot box, as hereinbefore provided, he shall not be entitled to pass again within the guard-rail for the purpose of voting, or to receive any further ballots.

**An elector must vote all the ballots that he wishes and is able to vote at one time.**— He cannot present himself more than once at the polls for the purpose of voting, and when he is reached in his turn he must once, and for all, exercise his right of suffrage at that election. (*Simpson v. Brown*, 18 N. Y. St. Repr. 781.) (This decision was based on the election laws for the city of New York in force in 1888, but the principle of law is applicable under the present general law.)

§ 107. **When unofficial ballots may be voted.**— If, for any cause, the official ballots shall not be provided as required by law at any polling place, upon the opening of the polls for an election thereat, or if the supply of official ballots shall be exhausted before the polls are closed, unofficial ballots, printed or written, made as nearly as practicable in the form of the official ballot, may be used.

§ 108. **Challenge.**— Subdivision 1. A person may be challenged either when he applies to the ballot clerk for official ballots, or when he offers to an inspector the ballot he intends to vote, or previously by notice to that effect to an inspector by any elector. The name of the person challenging shall not be disclosed by an election officer unless required by a court or a judicial officer. It shall be the duty of each inspector to challenge every person offering to vote, whom he shall know or suspect not to be duly qualified as an elector. If any person offering to vote at any election shall be challenged in relation to his right to vote thereat, one of the inspectors shall tender to him the following preliminary oath: "You do swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your place of residence

and qualification as an elector." The inspectors or one of them shall then question the person challenged in relation to his name; his place of residence before he came into that election district; his then place of residence, his citizenship; whether he be a native or naturalized citizen, and if the latter, when, where, and in what court, or before what officer he was naturalized; whether he came into the election district for the purpose of voting at that election; how long he contemplates residing in the election district, and all other matters which may tend to test his qualifications as a resident of the election district, citizenship and right to vote at such election at such polling place. If any person shall refuse to take such preliminary oath when so tendered, or to answer fully any such question which may be put to him, his vote shall be rejected. After receiving the answers of the persons so challenged, the board of inspectors shall point out to him the qualifications, if any, in respect to which he shall appear to them to be deficient.

[For Form of Questions under Preliminary Oath, see Form No. 44, page 154.]

**Subdivision 2. General oath.**—If the person so offering to vote, shall persist in his claim to vote, and the challenge be not withdrawn, one of the inspectors shall then administer to him the following general oath: "You do swear (or affirm) that you are twenty-one years of age, that you have been a citizen of the United States for ninety days, and an inhabitant of this state for one year next preceding this election, and for the last four months a resident of this county, and for the last thirty days a resident of this election district, and that you have not voted at this election." If the person so offering to vote shall be challenged for causes stated in section two of article two of the constitution of this state, the following additional oath shall be administered by one of the inspectors: "You do swear (or affirm) that you have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid, or used, any money, or other valuable thing, as a compensation or reward for the giving, or withholding, of a vote at this election, and have not made any promise to influence the giving or withholding of any such

vote, and that you have not made, or become directly or indirectly, interested in any bet or wager depending upon the result of this election." If the person so offering to vote shall be challenged on the ground of having been convicted of bribery or any infamous crime, the following additional oath shall be administered to him by one of the inspectors: "You do swear (or affirm) that you have not been convicted of bribery or any infamous crime, or if so convicted, that you have been pardoned and restored to all the rights of a citizen." If any person shall refuse to take either oath so tendered his vote shall be rejected, but if he shall take the oath or oaths tendered him, his vote shall be accepted.

**Powers of inspectors.**—"Inspectors of election have no judicial powers authorizing them to reject the vote of any person offering same who complies with the statutory tests." (*Opinion Attorney-General.*)

**Voters taking oath entitled to vote.**—"Voters answering the questions and taking the oath prescribed are entitled to vote." (*Opinion Attorney-General.*)

**Voters must take oath.**—"A person whose right to vote is challenged on election day must take the oath required by law, notwithstanding any oath he may have taken to procure the registration of his name." (*Opinion Attorney-General.*)

**Inspectors of election act only ministerially** in receiving the votes of electors and cannot refuse to accept a vote of an elector who takes the required oaths. (*People v. Pease*, 27 N. Y. 45; *Goetcheus v. Matthewson*, 61 id. 420; *People ex rel. Stapleton v. Bell*, 119 id. 175; *People ex rel. Sherwood v. Board of Canvassers*, 129 id. 372; *Matter of Hamilton*, 80 Hun, 511.)

**A deserter from the U. S. military service** who has taken the preliminary oath upon being challenged cannot be deprived of his vote unless a duly authenticated record of his conviction of the offense is presented to the board. (*Goetcheus v. Matthewson*, 61 N. Y. 420.)

**One who offers his vote** is legally presumed to be entitled to vote until some facts appear which would raise a contrary presumption. But where it appears by *prima facie* evidence that a person has never been naturalized, the burden of proving his citizenship is upon the voter. (*People v. Pease*, 27 N. Y. 45.)

**The decision by a majority of the board of inspectors in his favor** is not essential to the reception of the vote of a challenged voter. (*People ex rel. Stapleton v. Bell*, 119 N. Y. 175.)

**Election officers are liable** in damages for asking questions not tending to test the qualifications to vote of a challenged voter and for rejecting his vote upon his refusal to answer such questions. (*Goetcheus v. Matthewson*, 61 N. Y. 420.)

**Mandamus is proper to compel inspectors to take the vote of a chal-**

lenged elector who has answered the proper questions and taken the required oaths. But mandamus will not be granted if it appear indisputably upon the application that the elector is not a qualified voter. (*People v. Pease*, 27 N. Y. 45; *Goetcheus v. Matthewson*, 61 id. 420; *People ex rel. Stapleton v. Bell*, 119 id. 175; *People ex rel. Sherwood v. Board of Canvassers*, 129 id. 360.)

**Subdivision 3. Record of persons challenged.**—The inspectors of election shall keep a minute of their proceedings in respect to the challenging and administering oaths to persons offering to vote, in which shall be entered, by one of them, the name of every person who shall be challenged or take either of such oaths, specifying in each case whether the preliminary oath or the general oath, or both were taken. At the close of the election, the inspectors shall add to such minutes a certificate to the effect that the same are all such minutes as to all persons challenged at such election in such district.

[For Form for Record of Challenges, see Form No. 47, page 156.]

**§ 109. Time allowed employes to vote.**—Any person entitled to vote at a general election held within this state, shall on the day of such election, be entitled to absent himself from any service or employment in which he is then engaged or employed, for a period of two hours, while the polls of such election are open. If such elector shall notify his employer before the day of such election of such intended absence, and if thereupon two successive hours for such absence shall be designated by the employer, and such absence shall be during such designated hours, or if the employer upon the day of such notice, makes no designation, and such absence shall be during any two consecutive hours while such polls are open, no deduction shall be made from the usual salary or wages of such elector, and no other penalty shall be imposed upon him by his employer by reason of such absence. This section shall be deemed to include all employes of municipalities.

**Refusal to permit employes to attend elections.**—“A person or corporation who refuses to an employe entitled to vote at an election or town meeting, the privilege of attending thereat, as provided by the election law, or subjects such employe to a penalty or reduction of wages because of the exercise of such privilege, is guilty of a misdemeanor.” (§ 41f, *Penal Code*.)

**Intimidation of employe.**—“3. Being an employer, pays his employe



the salary or wages due in 'pay envelopes,' upon which there is written or printed any political motto, device or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employes, or within ninety days of a general election puts or otherwise exhibits in the establishment or place where his employes are engaged in labor, any hand bill or placard containing any threat, notice or information that if any particular ticket or candidate is elected or defeated, work in his place or establishment will cease, in whole or in part, his establishment be closed up, or the wages of his employes reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his employes, is guilty of a misdemeanor, and if a corporation shall in addition forfeit its charter." (§ 411, *subd.* 3, *Penal Code.*)

§ 110. **Canvass of votes.**—Subdivision 1. **Preparation for canvass.**—As soon as the polls of an election are closed, the inspectors of election thereat shall publicly canvass and ascertain the votes, and not adjourn or postpone the canvass until it shall be fully completed. Any election officer who shall sign any original statement of canvass, or certified copies thereof, at any place other than the polling place, or at any time other than immediately after the canvass is completed, and any election officer or person who shall take from the polling place any such statement before it shall have been signed as herein provided, is guilty of a felony, and shall be punished, upon conviction thereof, by imprisonment in a state prison for not less than two nor more than five years. The room in which such canvass is made shall be clearly lighted, and such canvass shall be made in plain view of the public. It shall not be lawful for any person or persons, during the canvass, to close or cause to be closed, the main entrance to the room in which such canvass is conducted in such manner as to prevent ingress or egress thereby. When two ballot boxes are provided for the reception of two different kinds of ballots voted, the said ballot boxes shall be opened and the ballots therein canvassed in the following order, namely: First, the box containing the general ballots; secondly, the box containing the ballots cast upon any constitutional amendment or other proposition or question. The board of inspectors shall commence the canvass by comparing the two poll books with the registers used on election day, correcting any mistakes therein, and by counting the ballots found in the ballot

boxes without unfolding them, except so far as to ascertain that each ballot is single, and by comparing the ballots found in each box with the number shown by the poll books to have been deposited therein. If the ballots found in any box shall be more than the number of ballots so shown to have been deposited therein, such ballots shall all be replaced without being unfolded in the box from which they were taken, and shall be thoroughly mingled therein, and one of the inspectors designated by the board shall, without seeing the same and with his back to the box, publicly draw out as many ballots as shall be equal to such excess and without unfolding them, forthwith destroy them. If two or more ballots shall be found in the ballot box so folded together as to present the appearance of a single ballot, they shall be destroyed if the whole number of ballots in such ballot box exceeds the whole number of ballots shown by the poll books to have been deposited therein, and not otherwise. If there lawfully be more than one ballot box for the reception of ballots voted at any one polling place, no ballot properly indorsed, found in the wrong ballot box, shall be rejected, but shall be counted in the same manner as if found in the proper ballot box, if such ballot shall not, together with the ballots found in the proper ballot box, make a total of more ballots than are shown by the poll books to have been deposited in the proper box. No ballot that has not the official indorsement shall be counted, except such as are voted in accordance with the provisions of the election law relating to unofficial ballots. The chairman only of the board of inspectors shall unfold the ballots taken from the ballot box.

**The indorsement upon the official ballot** is an essential part of the machinery of elections, by means of which the secrecy of voting is to be secured and enforced. Where ballots were cast containing an incorrect indorsement they were rejected lawfully. (*People ex rel. Nichols v. Board of Canvassers*, 129 N. Y. 401.)

(It should be noted, however, that the ballots referred to in the above case were prepared under what was known as the Ballot Reform Law, which provided that each political party should have a separate ballot for its own use, and, therefore, if the indorsement upon the back of one set of ballots was different from the indorsement upon the others, the ballot would reveal, when voted, how, or for whom, the elector cast his ballot. In the present law where there is but one ballot for all parties, is the indorsement necessarily of so great importance ?)

**A proper and legal indorsement is one of the essential features of an official ballot and a ballot not legally indorsed cannot be received or counted.** (*People ex rel. Sherman v. Person*, 45 N. Y. St. Repr. 528.)

**Subdivision 2. Intent of electors.**—No. 1. If the elector marks more names than there are persons to be elected to an office, or if for any reason it is impossible to determine the elector's choice for an office to be filled, his vote shall not be counted for such office, but shall be returned as a blank vote for such office.

No. 2. If the elector shall have made a cross X mark in the circle at the head of a party ticket and before the names of individual candidates on the same ticket *only*, the voting marks in the voting spaces before the names of such candidates on such ticket shall be treated as surplusage, and his vote shall be counted for all the candidates on such ticket so marked in the circle.

No. 3. If the elector shall have made a cross X mark in the circle above the name of the party, some of whose candidates he desired to vote for, and he shall also have placed a cross X mark before the name of any candidate of any other party for any office, the cross X mark in the circle above the name of the party ticket must be deemed to have cast the elector's vote for every candidate on the ticket of such party so marked except for the candidate or candidates for the offices which are individually marked on other tickets, and the candidate or candidates so individually marked on such other ticket or tickets shall be deemed the choice of the voter for such office or offices; provided, however, that,

No. 4. Where two or more persons are to be voted for in any election district for the same office, as two or more justices of the supreme court, or presidential electors, and the names of the several candidates therefor are printed on any party ticket under the title of the office for which all are running, and the elector shall have made a voting mark in the circle at the head of the party ticket, and shall also have made a voting mark before one or more of the group of candidates for such office *on one other ticket only*, he shall be deemed to have cast his vote for all the candidates for such office on the party ticket so marked in the circle, except for such candidates of such party whose names are upon the same lines as the names

of the candidates upon the other ticket so individually marked, and his vote shall be counted for the candidates of such party which he has so individually marked, unless in addition to marking the ticket in the circle at its head, he shall also have made a cross X mark before each one of the group of candidates for such office for whom he desires to vote on the ticket thus marked in the circle; and provided, further,

No. 5. That where two or more persons are to be voted for in any election district for the same office, as presidential electors or justices of the supreme court, and the names of the several candidates therefor are printed on any party ticket under the title of the office for which all are running and the elector shall have made a voting mark in the circle at the head of the party ticket, and shall also have made a voting mark before the names of candidates for such office for which all are running, *upon more than one* other party ticket, he must also indicate by voting marks on the ticket so marked in the circle the individual candidates of the group of candidates so running upon such ticket for such office for whom he desires to vote, but if he has not, his vote shall only be counted for the candidates for such office which are individually marked.

No. 6. If the elector shall have marked a cross X mark in more than one circle at the head of the party tickets and if on either of such tickets there shall be one or more candidates for office for which no other candidate or candidates is or are named on such other ticket or tickets so marked in the circle his vote shall be counted for such candidate or candidates.

Subdivision 3. **Method of counting.**— The method of counting shall be as follows: The straight ballots, that is, the ballots on which all the candidates on one party ticket and no others are voted for shall be separated from the split ballots and counted, and the number of straight party votes for each candidate shall be entered in gross opposite his name on each tally sheet by each poll clerk. The chairman of the board shall then take the split ballots separately, and announce the vote for each candidate on each such ballot, in the order of the offices printed thereon, and each poll clerk shall make an accurate tally of the same. As the votes on each split ballot are counted, such ballot shall be passed to the other inspect-

ors for verification. The poll clerks shall then add together all the votes for each candidate and the ballots wholly blank and void, together with the ballots on which no votes were counted for any candidate for such office, and shall enter the sum thereof in the proper column on the tally sheet. As soon as the count is completed for each office, the poll clerks shall submit the result to the inspectors for examination, and if found to be correct, the chairman shall at once announce the result. When a ballot is not void and an inspector of election or other election officer or duly authorized watcher shall, during the canvass of the vote, declare his belief that any particular ballot has been written upon or marked in any way for the purpose of identification, the inspectors shall write on the back of such ballot the words "objected to because marked for identification," and shall specify over their signatures upon the back thereof the mark or marking upon such ballot to which objection is made. The votes upon each such ballot shall be counted by them, as if not so objected to. If requested by any watcher the inspectors shall, during the canvass, exhibit any and all ballots cast at such election or town meeting to such watcher, fully opened, and in such a condition that he may fully and carefully read and examine the same, but such inspector shall not allow any such ballot to be taken from his hand. Any person who shall place upon any ballot taken from the ballot box any mark or marking, or who shall tear or deface such ballot with the intent of causing such ballot to be rejected as void, shall be guilty of a felony, and shall be punished upon conviction therefor by imprisonment in a state prison for a period not less than five nor more than ten years. In cities of the first class the chairman of the board of inspectors shall, forthwith upon the completion of the count of votes for each office, respectively, and the announcement thereof, deliver to the police officer on duty at such place of canvass a statement subscribed by the board of inspectors, stating the number of votes received by each candidate for such office. Such statement shall forthwith be conveyed by the said officer to the station-house of the police precinct in which such place of canvass is located, and he shall

deliver the same inviolate to the officer in command thereof, who shall immediately transmit by telegraph, telephone or messenger, the contents of such statement to the officer commanding the police department of such city. Such statement shall be preserved for six months by the police, and shall be presumptive evidence of the result of such canvass for each such office.

**Ballots incorrectly numbered are "marked ballots"** within the statute, and should not be received by the board of inspectors. But once received and placed in the box, with the stubs containing the numbers torn off, they should be counted. (*People ex rel. Bradshaw v. Bidelman*, 69 Hun, 596.)

**Void ballots — ballots not conforming** to the provisions of a statute intended for the purpose of securing secrecy, and which reveal the contents or render them capable of subsequent identification, are void by force of prohibition in the statute against revealing and counting them. (*Commonwealth v. Woelper*, 3 S. & R. 29; *West v. Ross*, 55 Mo. 350; *Oglesby v. Sigman*, 56 Miss. 502; *State v. McKinnon*, 8 Oreg. 493; *Reynolds v. Snow*, 67 Cal. 497; *Talcott v. Philbrick*, 59 Conn. 472; *Fields v. Osborne*, 21 Atl. Rep. 1070; *In re Vote Marks*, Id. 962; *Ledbetter v. Hall*, 62 Mo. 422; *Perkins v. Carraway*, 59 Miss. 222; *Steele v. Calhoun*, 61 id. 556.)

**Secrecy is the idea at the foundation of the ballot law**, and any construction which would permit the ballots to be counted that would reveal the way the voter using them voted should be avoided as contrary to the true policy and intent of the law. (*People ex rel. Nichols v. Board of Canvassers*, 129 N. Y. 401.)

**Ballots wrong as to form** in that they contain more candidates for a certain office than there are persons to be elected to such office, shall be regarded and treated as valid, although unofficial ballots. But votes cast by the use of such ballots for more candidates than should be voted for cannot be counted, because they fail to express the elector's choice for the office, and if there is one ballot cast only containing the proper number of candidates for an office, such ballot shall be counted and the officers thereby voted for declared elected. (*Montgomery v. O'Dell*, 51 N. Y. St. Repr. 444.)

**The eligibility of a person voted for cannot be decided by inspectors of election**; their duty is to count the votes cast for any and every person whose name appears upon a ballot printed and indorsed as the law directs. (*People ex rel. Bradley v. Shaw*, 45 N. Y. St. Repr. 533.)

**Prior to the legislation of 1890, ballots could be counted** for candidates for whom they were cast, though they did not in all respects correspond with the direction of the statute, and after deposited in the box could not be rejected in any case by the canvassers if the intent of the voters was sufficiently expressed. (*People ex rel. Nichols v. Board of Canvassers*, 129 N. Y. 401.)

**Inspectors are liable in damages** for refusing to perform any of the acts required by the statute in relation to ballots objected to as marked for identification. (*People ex rel. Hasbrouck v. Supervisors*, 135 N. Y. 522.)

**A single inspector cannot indorse upon a ballot an objection** raised subsequently to the canvass that it was marked for identification. (*People ex rel. Bush v. Board*, 66 Hun, 265.)

**Where but one legal vote was cast** for a candidate for an office required by law to be filled at that election, such candidate was rightfully declared elected, though not regularly nominated, and his name not printed on the official ballot. (*Montgomery v. O'Dell*, 51 N. Y. St. Repr. 444.)

**The very purpose of voting is that the ballot may show the voter's choice**, and when he names more than the limited number of candidates to be voted for, it is impossible to determine which of the number he prefers. (*Montgomery v. O'Dell*, 51 N. Y. St. Repr. 444; *People v. Loomis*, 8 Wend. 396; *People v. Seaman*, 5 Den. 409; *People v. Ames*, 19 How. Pr. 551.)

**Canvassers must reject and treat as void** all ballots found in the box, prepared for and bearing the designation and number of another and a different polling place or election district than the one where the ballot was cast. (*People ex rel. Nichols v. Board of Canvassers*, 129 N. Y. 395, 408.)

§ 111. **Original statement of canvass and certified copies.**— Upon the completion of the canvass, the board of inspectors of election shall make and sign an original statement thereof showing the kind of election, the date when held; the number of the election district; the town or ward, and the city and county in which it was held, on the first page or pages of which there shall be return of the ballots voted, following which there shall be a separate return for each office of the votes cast for each candidate therefor in the form prescribed for such returns and statement in section eighty-four of the election law. At the end of the last detailed statement of votes cast for candidates, they shall add a statement of the number of general ballots protested as "marked for identification," which ballots shall be endorsed by the inspectors "protested as marked for identification," specifying the mark or marking to which objection is made over their signatures, and all of which shall be counted for the several candidates voted for thereon. The inspectors shall also make as a part of their original statement a return of the number of void ballots rejected by them, and on such ballots no vote can be counted for any candidate. Each such ballot so declared

void by the inspectors shall be indorsed upon the back thereof with the specific reason for such rejection. Such void ballots shall, together with the ballots which were protested as being marked for identification be secured in a separate sealed package, which shall be indorsed on the outside thereof with the names of the inspectors, the designation of the election district, and the number and kind of ballots contained therein. Such package shall be filed by the chairman of the board of inspectors with the original statement of the canvass. If ballots are voted on any constitutional amendment, proposition or question, a similar return of the ballots and votes cast thereon shall be made and included as a part of such original statement. Such inspectors shall, whenever unofficial ballots are voted, return all of such ballots in the package with the void and protested ballots. At the end of each return contained in such original statement of the canvass, and also at the bottom of each sheet, or half sheet thereof, the inspectors shall make and sign a certificate that the foregoing statement is correct. If any inspector, poll clerk or ballot clerk shall refuse to sign any return required of him by the election law he must state the grounds upon which such refusal is based upon such return over his signature. Unless such an election be an election of town, village or school officers, held at a different time from a general election, such inspectors shall forthwith and before adjourning and taking any recess make two certified copies of such original certified statement of the result of the canvass. Forthwith upon the completion of such original statement and of such certified copies thereof, and the proclamation of the result of the election as to each candidate, the ballots voted, except the void and protested ballots, shall be replaced in the box from which they were taken, together with a statement as to the number of such ballots so replaced. Each such box shall be securely locked and sealed, and shall be deposited with the officer or board furnishing such boxes. They shall be preserved inviolate for six months after such election and may be opened and their contents examined upon the order of the supreme court or a justice thereof, or a county judge of such county, and at the expiration of such time the ballots may be disposed of in



the discretion of the officer or board having charge of them.

[For Form for Inspectors' Return and Statement of Canvass, see Form No. 48, page 156.]

**False returns.**—"An inspector or poll clerk of an election or town meeting, who intentionally makes, or attempts to make, a false canvass of the ballots cast thereat, or any false statement of the result of a canvass, though not signed by a majority of the inspectors, or any person who induces or attempts to induce any such inspector or clerk so to do, is guilty of a felony," (§ 41*n*, *Penal Code*.)

**An erasure or alteration visible upon the face of a statement of canvass** will not create the presumption of fraud. Election returns are documents of a public nature, and in the absence of proof that they have been fraudulently tampered with will be received as evidence in courts of justice. (*People ex rel. Stone v. Minck*, 21 N. Y. 539.)

**A new statement of canvass cannot be made** by the inspectors after the completion and filing of the original statement. Boards of inspectors cannot thus review their own acts. (*People ex rel. Russell v. Board*, 46 Hun, 390.)

**Where two inspectors signed** the statement of canvass and two refused to sign, and the questions of fraud raised were never finally determined by legal proceedings, there was no election. (*People ex rel. Woods v. Crissey*, 91 N. Y. 616.)

**Inspectors having made a canvass** cannot be compelled or permitted to make a new one. (*People ex rel. Fiske v. Devermann*, 83 Hun, 81.)

**The signing of a statement in blank in advance** of the canvass is wrong and irregular, but if, by the consent and action of the canvassers, the statement is filled up with the result agreed upon by all of their number, the statement becomes effective. (*People ex rel. Fiske v. Devermann*, 83 Hun, 81.)

§ 112. **Proclamation of result.**—Upon the completion of such canvass and of the original statement and certified copies of the result thereof, the chairman of the board of inspectors shall make public oral proclamation of the whole number of votes cast at such election at such polling place for all candidates for each office; upon each proposed constitutional amendment or other question or proposition, if any, voted upon at such election, the whole number of votes given for each person, with the title of the office for which he was named on the ballot; and the whole number of votes given respectively for and against each proposed constitutional amendment or other question or proposition, if any, so submitted. The original statement of canvass and the certified copies thereof shall be securely and separately sealed

with sealing wax in an envelope properly indorsed on the outside thereof by the inspectors, and shall be kept inviolate by the officers or board with whom they are filed until delivered, together with the sealed packages of void and protested ballots, to the county or city board of canvassers.

[For Form for Proclamation, see Form No. 49, page 158.]

**§ 113. Delivery and filing of papers relating to the election.**— If the election be other than an election of town, city, village or school officers, held at a different time from a general election, the chairman of the board of inspectors of each election district, except in the cities of New York and Brooklyn, shall forthwith, upon the completion of such certified original statement of the result, deliver one certified copy thereof to the supervisor of the town in which the election, if outside of a city, is situated, and if in a city, to one of the supervisors of said city. If there be no supervisor, or he be absent or unable to attend the meeting of the county board of canvassers, such certified copy shall be forthwith delivered to an assessor of such town or city. One certified copy of such original statement of the result of the canvass, the poll-books of such election, and one of the tally sheets, shall be forthwith filed by such inspectors, or by one of them deputed for that purpose, with the town clerk of such town, or the city clerk of such city, as the case may be. The original certified statement of the result of the canvass, with the original ballot returned prepared by the ballot clerk attached, the sealed package of void and protested ballots, the record as to challenged and assisted voters, and the sealed packages of detached stubs and unvoted ballots, and one of the tally sheets shall, within twenty-four hours after the completion of such canvass, be filed by the chairman of the board of inspectors, with the county clerk of the county in which the election district is situated. The register of electors and public copy thereof shall be filed as prescribed in section thirty-five of the election law. In the city of New York, the original statement of canvass and the sealed package of void and protested ballots shall be filed within twelve hours after the completion of the canvass, with the board of police commissioners, together with one of the poll-books, and one of the tally sheets, properly certified by

the poll clerks. One certified copy of such original statement, one poll-book and one tally sheet shall be filed within such time with the county clerk of New York county, and the other certified copy of such original statement with the clerk of the board of aldermen. In the city of Brooklyn the original statement of canvass, the sealed package of void and protested ballots, one of the poll-books and one of the tally sheets, properly certified by the poll clerks, shall be filed within twelve hours after the completion of the canvass with the board of elections, one of the certified copies of the original statement of the canvass, one poll-book and one tally sheet shall be filed within such time in the office of the county clerk of Kings county, and the other certified copy of such original statement with the commissioner of police of the city of Brooklyn. The sealed packages of detached stubs, and ballots not used at the election, shall, in the cities of New York and Brooklyn, be given by the inspectors to the police, who shall return them to the board of police in the city of New York, and to the board of elections in the city of Brooklyn. All such packages of detached stubs and unused ballots shall be preserved inviolate in the office in which they are filed, for a period of six months from the time of filing thereof, and may be opened and examined upon the order of the supreme court or a justice thereof, or a county judge within such county, and at the expiration of such time may be disposed of in the discretion of the officer or board having custody of the same.

§ 114. **Judicial investigation of ballots.**—If any certified original statement of the result of the canvass in an election district shall show that any of the ballots counted at an election therein were objected to as marked for identification, a writ of mandamus may, upon the application of any candidate voted for at such election in such district, within twenty days thereafter, issue out of the supreme court to the board or body of canvassers, if any, of the return of the inspectors of such election district, and otherwise to the inspectors of election making such statement requiring a recount of the votes of such ballots. If the court shall, in the proceedings upon such writ, determine that any such ballot was marked

for the purpose of identification, the court shall order such ballot and the votes thereon to be excluded upon a recount of such votes. A like writ may in the same manner be issued to determine whether any ballot and the votes thereon which has been rejected by the inspectors as void, shall be counted. If in the proceedings upon such writ the court shall determine that the votes upon any such ballot rejected as void shall be counted, the court shall order such ballot and the votes thereon to be counted upon a recount of such votes. Boards of inspectors of election districts, and boards of canvassers, shall continue in office for the purpose of such proceedings.

**An alternative writ of mandamus** should be procured so that disputed facts can be settled before the peremptory writ issues. (*People ex rel. Hasbrouck v. Supervisors*, 135 N. Y. 522.)

**A writ of peremptory mandamus is proper** to compel votes for an office omitted to be named upon an official ballot to be counted when written upon the ballot. (*People ex rel. Goring v. President*, 144 N. Y. 616.)

**The courts must determine in the mandamus proceeding** whether, under the circumstances of the particular case, there has been such a substantial compliance with the statute as will enable the candidate complaining of marked ballots to maintain the proceeding. Inspectors cannot defeat the mandamus proceeding by failing to write their names on the ballots or to make the required statement. (*People ex rel. Hasbrouck v. Supervisors*, 135 N. Y. 522.)

**An election will not be nullified in toto** by the casting and counting of marked ballots: Such ballot will be thrown out as void, but will not operate to render void the ballots that were regular and in accordance with the provisions of the statute. (*People ex rel. Bradshaw v. Bidelman*, 69 Hun, 596.)

**A statement of canvass or certificate of election is only prima facie evidence** of the title of the persons therein declared elected to the offices therein mentioned. In all cases where the proceeding is by *quo warranto* or in an action of that nature, it is held that such proceeding is instituted to try the right to the office directly, and it is competent to go behind the certificate or statement, which would otherwise be conclusive, to ascertain the real facts of the case. (*People v. Pease*, 27 N. Y. 45; *People v. Seaman*, 5 Den. 409; *People v. Ferguson*, 8 Cow. 102; *People v. Van Slyck*, 4 id. 297; *People v. Vail*, 20 Wend. 12.)

**The intent of the voter will be effectuated** as far as possible by the court's ruling as to the counting or discarding of votes. (*People ex rel. Nichols v. Board of Canvassers*, 129 N. Y. 401.)

**Unless objection is made during the canvass** to a ballot as marked for identification the inspectors are not required to so indorse it nor return it

with their statement of canvass. A *peremptory* writ of mandamus will not issue compelling the board to so indorse the ballot upon an objection made subsequent to the canvass, but an *alternative* writ will issue in order that the fact of the validity of the ballot may be tried. (*People ex rel. Bush v. Board*, 66 Hun, 265.)

**That an objection to a ballot was not raised** during the canvass of the votes will not preclude the court from subsequently considering such objection. (*People ex rel. Hasbrouck v. Supervisors*, 135 N. Y. 522.)

**Every inspector must sign the certificate containing the statement of canvass** required by law. He cannot refuse to do so on the ground that he knows or believes that votes were cast by persons who had no right to cast them. If such persons have taken the required oaths the inspectors must receive the votes, and a mandamus will issue compelling them to sign the returns. (*People ex rel. Stapleton v. Bell*, 119 N. Y. 175.)

**Whether a ballot is or is not a marked ballot** is an open question to be determined as an issue of fact by the court. (*People ex rel. Hasbrouck v. Supervisors*, 135 N. Y. 522.)

**Inspectors must count all ballots** whether objected to or not, and in a proceeding to obtain a writ of mandamus compelling them so to do, the question as to whether the ballots were marked for identification cannot be raised. (*People ex rel. Bradley v. Shaw*, 133 N. Y. 493.)

**There is nothing for the inspectors to do except to count the ballots** in the box. They are prohibited from receiving any having any mark on the outside or not properly indorsed, and if anything appears on the inside of the ballot not authorized by law they must preserve such ballot; then those interested have ample opportunity to deliberately investigate the matter, and after such investigation, if they think proper, present it to the court for its determination. (*People ex rel. Bradley v. Shaw*, 45 N. Y. St. Repr. 533.)

**Where inspectors have canvassed the votes**, and fraud or mistake other than clerical is afterwards shown, the remedy is not by *mandamus* to compel them to recount the votes but by *quo warranto* after certificates of election have been granted to the candidates declared elected. (*People ex rel. Gaige v. Reardon*, 49 Hun, 425, overruling *People v. Board*, 64 How. 201.)

**The remedy for frauds and mistakes** other than clerical is by proper proceedings in court or before the board or body, to membership in which the person aggrieved is a candidate, where that board or body has the power conferred upon it to determine the qualifications and election of its own members. *Mandamus* is not such a proper proceeding in court. (*People ex rel. Blodgett v. Board*, 44 N. Y. St. Repr. 738.)

**An irregularity on the part of the inspectors** in not complying with the law in making and filing their returns cannot be availed of by one who does not show himself to have been injured thereby. (*People ex rel. Hatzel v. Board*, 58 How. 141.)

**FORMS FOR ELECTION LAW, ARTICLE 5.**

**FORM No. 35.**

(See § 104, subd. 2, Election Law.)

**Oath to be taken by election officers before opening of the polls.**

(See § 108, page 128.)

STATE OF NEW YORK, }  
COUNTY OF           , } ss.:

I do solemnly swear (or affirm) that I will not in any manner request or seek to persuade, or induce any voter to vote any particular ticket or for any particular candidate, and that I will not keep or make any memoranda or entry of anything occurring within a voting booth, and that I will not directly or indirectly reveal to any person the name of any candidate voted for by any voter, or which ticket he has voted, or anything occurring within the voting booth except I be called upon to testify in a judicial proceeding for a violation of the election law.

Subscribed and sworn to before me /  
this       , day of       , 189   . }

The above oath should be taken before a notary public or other officer authorized to administer oaths.

It would seem to be good practice if the same should be filed in the office of the town or city clerk as evidence of the fact that the statute has been complied with.

On page 149, form 36, instead of "sunset" (last word), read "five o'clock in the afternoon."

... in the name of the people of this state, to keep the peace thereof during their attendance at this election on pain of imprisonment. And all persons are desired to take notice that the polls will be closed at sunset.

**FORM No. 37.**

(See § 102, Election Law.)

**Certificate of appointment of watchers.**

At a meeting of the        committee of the        party (or independent body), a political party (or independent body), which has duly filed certificates of nominations of candidates to be filled at the

with their statement of canvass. A *peremptory* writ of mandamus will not issue compelling the board to so indorse the ballot upon an objection made subsequent to the canvass, but an *alternative* writ will issue in order that the fact of the validity of the ballot may be tried. (*People ex rel. Bush v. Board*, 66 Hun, 265.)

**That an objection to a ballot was not raised** during the canvass of the votes will not preclude the court from subsequently considering such objection. (*People ex rel. Hasbrouck v. Supervisors*, 135 N. Y. 522.)

**Every inspector must sign the certificate containing the statement of canvass** required by law. He cannot refuse to do so on the ground that he knows or believes that votes were cast by persons who had no right to cast them. If such persons have taken the required oaths the inspectors must receive the votes, and a mandamus will issue compelling them to sign the returns. (*People ex rel. Stapleton v. Bell*, 119 N. Y. 175.)

**Whether a ballot is or is not a marked ballot** is an open question to be determined as an issue of fact by the court. (*People ex rel. Hasbrouck v. Supervisors*, 135 N. Y. 522.)

**Inspectors must count all ballots** whether objected to or not, and in a proceeding to obtain a writ of mandamus compelling them so to do, the question as to whether the ballots were marked for identification cannot be raised. (*People ex rel. Bradley v. Shaw*, 133 N. Y. 493.)

**There is nothing for the inspectors to do except to count the ballots** in the box. They are prohibited from receiving any having any mark on the outside or not properly indorsed, and if anything appears on the inside of the ballot not authorized by law they must reject such ballot; they

*Gaige v. Reardon*, 49 Hun, 425, overruled 201.)

**The remedy for frauds and mistakes** other than clerical is by proper proceedings in court or before the board or body, to membership in which the person aggrieved is a candidate, where that board or body has the power conferred upon it to determine the qualifications and election of its own members. *Mandamus* is not such a proper proceeding in court. (*People ex rel. Blodgett v. Board*, 44 N. Y. St. Repr. 738.)

**An irregularity on the part of the inspectors** in not complying with the law in making and filing their returns cannot be availed of by one who does not show himself to have been injured thereby. (*People ex rel. Hatzel v. Board*, 58 How. 141.)

## FORMS FOR ELECTION LAW, ARTICLE 5.

### FORM No. 35.

(See § 104, subd. 2, Election Law.)

#### Oath to be taken by election officers before opening of the polls.

(See § 108, page 128.)

STATE OF NEW YORK, }  
COUNTY OF , } ss.:

I do solemnly swear (or affirm) that I will not in any manner request or seek to persuade, or induce any voter to vote any particular ticket or for any particular candidate, and that I will not keep or make any memoranda or entry of anything occurring within a voting booth, and that I will not directly or indirectly reveal to any person the name of any candidate voted for by any voter, or which ticket he has voted, or anything occurring within the voting booth except I be called upon to testify in a judicial proceeding for a violation of the election law.

Subscribed and sworn to before me }  
this , day of , 189 . }

The above oath should be taken before a notary public or other officer authorized to administer oaths.

It would seem to be good practice if the same should be filed in the office of the town or city clerk as evidence of the fact that the statute has been complied with.

### FORM No. 36.

(See § 100, Election Law.)

#### Proclamation of opening the polls.

Hear ye! hear ye! hear ye! The polls of this election is opened, and all persons attending the same are strictly charged and commanded, by the authority and in the name of the people of this state, to keep the peace thereof during their attendance at this election on pain of imprisonment. And all persons are desired to take notice that the polls will be closed at sunset.

### FORM No. 37.

(See § 102, Election Law.)

#### Certificate of appointment of watchers.

At a meeting of the committee of the party (or independent body), a political party (or independent body), which has duly filed certificates of nominations of candidates to be filled at the



election to be held , 189 , the following named persons, and , were, by virtue of the powers given to the said political organization (or independent) body by section 102 of the election law appointed watchers to attend the polling places in the election district of the town (or ward) of , in the county of .

Witness, the signature of the president (or chairman) and the secretary of the committee of said political party (or independent body) this day of , 189 .

\_\_\_\_\_  
*President (or Chairman.)*

\_\_\_\_\_  
*Secretary.*

### FORM No. 38.

(See § 103, subd. 2, Election Law.)

**Form of ballot return to be prepared by the ballot clerks, and attached to the original statement of canvass made by the inspectors and to each copy, in compliance with subdivision two of section one hundred and three of the election law.**

1. The number of full sets of official ballots furnished to election district number (five) of the (town of Canandaigua) county of (Ontario), were..... 800
2. The number of sets of official ballots canceled before delivery to voters by reason of one or more of the set being found defective in printing or mutilated, all of which were destroyed by us, were. 5
3. The number of sets of official ballots spoiled and returned by voters, all of which were destroyed by us, were ..... 10
4. The number of sets of official ballots returned to the county clerk or other officer, unused, were ..... 300
5. The number of sets of official ballots actually voted, were ..... 485
6. Total sets of official ballots accounted for are ..... 800
7. The number of sets of detached stubs were ..... 500
8. The number of sets of stubs on unused ballots were ..... 300
9. The total sets of stubs accounted for are ..... 800

We hereby certify that the foregoing ballot return for election district number (five) of the (town of Canandaigua), county of (Ontario), for the election held November (5th, 1895), is correct.

(Signed.)

\_\_\_\_\_  
\_\_\_\_\_  
*Ballot Clerks.*

CONDUCT OF ELECTIONS AND CANVASS OF VOTES—FORMS. 151

**FORM No. 39.**

(See § 103, subd. 3, Election Law.)

**Poll list. Sample of alphabetical page.**

Number of electors.	NAME OF ELECTORS.	Residence of electors.	Number on ballot delivered to electors.			No. on ballot voted.	Remarks.
			First set.	Second set.	Third set.		
1	Adams, John.	4000 Swan st...	4	....	....	4	Challenged
2	Anthony, Smith J.	Albany.....	60	86	...	86	
3	Andrews, Wm....	369 State st....	100	....	....	100	Blind, assisted by
4	Archer, Frank J..	736 Madison av.	160	....	....	160	—.

(Upon the close of the polls the poll list to be delivered to the chairman of board of inspectors.)

**FORM No. 40.**

(See § 104, subd. 2, Election Law.)

**Oath to be administered to illiterate voter.**—You do solemnly swear (or affirm) that you are unable to prepare your ballot without assistance because you are unable to write by reason of illiteracy.

**FORM No. 41.**

(See § 104, subd. 2, Election Law.)

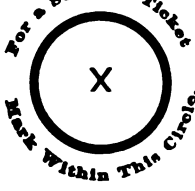


**Oath to be administered to disabled voters.**—1. You do solemnly swear (or affirm) that you will be unable to prepare your ballot without assistance, because (Insert specific disease or crippled condition).

**FORM No. 42.**

(See § 105, Election Law.)

**Illustrating how to vote a straight ticket.**

Make a cross (X) mark in the circle above the name of the party at the head of the ticket.

Device.	Device.	Device.
		
<b>Republican Ticket.</b>	<b>Democratic Ticket.</b>	<b>Prohibition Ticket.</b>
For Secretary of State, John Palmer.	For Secretary of State, Frank Rice.	For Secretary of State, Joseph A. Bogardus.
For Comptroller, James A. Roberts.	For Comptroller, Frank Campbell.	For Comptroller, George T. Chester.
For Treasurer, Addison B. Colvin.	For Treasurer, Elliot Danforth.	For Treasurer, William R. Hunt.
For Attorney-General, Theodore E. Hancock.	For Attorney-General, Simon W. Rosendale.	For Attorney-General, Edwin A. English.
For State Engineer and Surveyor, Campbell W. Adams.	For State Engineer and Surveyor, Martin Schenck.	For State Engineer and Surveyor, Chester Belding.
For Judge of Court of Appeals, Edward T. Bartlett.	For Judge of Court of Appeals, Isaac H. Maynard.	For Judge of Court of Appeals, Selden W. Marvin.
For Justice of Supreme Court, John T. McDonough.	For Justice of Supreme Court, D. Cady Herrick.	For Justice of Supreme Court, James W. Bentley.
For Senator, Vreeland H. Youngman.	For Senator, Amasa J. Parker.	For Senator, Fred. F. Wheeler.
For Member of Assembly, Patrick H. McCormack.	For Member of Assembly, Jacob L. Ten Eyck.	For Member of Assembly, Isaac Lagrange.

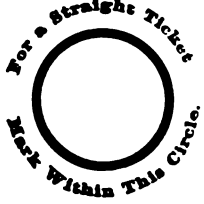


# CONDUCT OF ELECTIONS AND CANVASS OF VOTES—FORMS. 153

## FORM No. 43.

(See § 105, Election Law.)

### Illustrating how to vote a split ticket.

Do not make a cross (X) mark in the circle above the names of any party, but make a cross (X) mark in the voting space before the name of each candidate for whom you desire to vote, on whatever ticket he may be.

Device.		Device.		Device.	
					
Republican Ticket.		Democratic Ticket.		Prohibition Ticket.	
X	For Secretary of State, John Palmer.		For Secretary of State, Frank Rice.		For Secretary of State, Joseph A. Bogardus.
X	For Comptroller, James A. Roberts.		For Comptroller, Frank Campbell.		For Comptroller, George T. Chester.
	For Treasurer, Addison B. Colvin.	X	For Treasurer, Elliot Danforth.		For Treasurer, William R. Hunt.
X	For Attorney-General, Theodore E. Hancock.		For Attorney-General, Simon W. Rosendale.		For Attorney-General, Edwin A. English.
	For State Engineer and Surveyor, Campbell W. Adams.		For State Engineer and Surveyor, Martin Schenck.	X	For State Engineer and Surveyor, Chester Belding.
	For Judge of Court of Appeals, Edward T. Bartlett.	X	For Judge of Court of Appeals, Isaac H. Maynard.		For Judge of Court of Appeals, Selden W. Marvin.
X	For Justice of Supreme Court, John T. McDonough.		For Justice of Supreme Court, D. Cady Herrick.		For Justice of Supreme Court, James W. Bentley.
X	For Senator, Vreeland H. Youngman.		For Senator, Amasa J. Parker.		For Senator, Fred. F. Wheeler.
X	For Member of Assembly, Patrick H. McCormack.		For Member of Assembly, Jacob L. Ten Eyck.		For Member of Assembly, Isaac Lagrange.

**FORM No. 44.**

(See § 108, Election Law.)

**Questions under preliminary oath.**

1. What is your name?
2. What is your age?
3. Where do you reside? State as precisely as you are able the particular locality of your place of residence.
4. How long have you resided in this election district?
5. What was your last place of residence before you came into this election district?
6. How long have you resided in this county?
7. How long have you resided in this state?
8. Are you a native or naturalized citizen?  
If a naturalized citizen.
9. When were you naturalized?
10. Where and in what court, or before what officer.
11. How long have you resided in the United States?
12. Did you come into this election district for the purpose of voting at the next ensuing election?
13. How long do you contemplate residing in this election district?
14. Have you made any bet or wager, or are you directly or indirectly interested in any bet or wager depending on the result of the next ensuing election?
15. Have you received, or offered to receive, or do you expect to receive, any money or other valuable thing as a compensation or reward for giving your vote at the next ensuing election?
16. Have you paid, offered or promised to pay, contributed, offered or promised to contribute, to another, to be paid or used, any money or other valuable thing, or made any promise, to influence the giving or withholding of any vote at the next ensuing election?
17. Have you been convicted of bribery or of any infamous crime, or, if convicted, have you been pardoned and restored to all the rights of citizenship?

In addition, such other questions may be asked which may tend to test the qualifications of the person offering to vote as a resident of the election district, citizenship and right to vote at such polling place.

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**FORM No. 45.**

(See § 108, Election Law.)

**General oath on challenge.**

"If the person so offering to vote, shall persist in his claim to vote, and the challenge shall not be withdrawn, one of the inspectors shall then administer to him the following oath: 'You do swear (or affirm) that you are twenty-one years of age, that you have been a citizen of the United

CONDUCT OF ELECTIONS AND CANVASS OF VOTES—FORMS. 155

States for ninety days, and an inhabitant of this state for one year next preceding this election, and for the last four months a resident of this county, and for thirty days a resident of this election district, and that you have not voted at this election.'

"If the person so offering to vote shall be challenged for causes stated in section two of article two of the constitution of this state the following additional oath shall be administered by one of the inspectors: 'You do swear (or affirm) that you have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at this election, and have not made any promise to influence the giving or withholding of any such vote; and that you have not made, or become directly or indirectly interested in any bet or wager depending upon the result of this election.'

"If the person so offering shall be challenged on the ground of having been convicted of bribery or any infamous crime, the following additional oath shall be administered to him by one of the inspectors: 'You do swear (or affirm) that you have not been convicted of bribery or any infamous crime, or if so convicted, that you have been pardoned and restored to all the rights of a citizen.'

"If any person shall refuse to take either oath so tendered, his vote shall be rejected." (§ 108, *Election Law*.)

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**FORM No. 46.**

(See §§ 104 and 106, *Election Law*.)

**Blank for the report of assisted and challenged electors.**

Three blank statements in the following form shall also be furnished to each board of inspectors, which shall, at the close of the election, be filled by them, and one original statement shall be attached to the original return, and a copy thereof to each copy of the original return:

1. The names of persons who were challenged, and the challenge not withdrawn, were \_\_\_\_\_, in all, three (3)
2. The names of persons who received assistance on account of physical disability, were \_\_\_\_\_, in all, five (5)
3. The names of persons who received assistance on account of being unable to write by reason of illiteracy, were \_\_\_\_\_, in all, two (2)

We certify the foregoing statement is correct.

Dated this (fifth) day of November, 1895.

\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_,  
*Board of Inspectors.*

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\* Under the heading of paragraph 1, should be stated whether the person challenged took the preliminary or general oath or both.

**FORM No. 48.**

(See § 111, Election Law.)

**Sample.**

**Inspectors' returns and statement of canvass.**—*Original* official statement of the result of a (general) election, held on the (fifth) day of November (1895), in the (fifth) election district of the (town of Canandaigua), county of (Ontario), state of New York, made by the inspectors of election in and for said district, which return is made as provided in section one hundred and eleven of the election law.

**RETURN OF BALLOTS VOTED.**

- |   |     |
|---|-----|
| 1. The whole number of general ballots actually voted, as verified by the return of the ballot clerks attached hereto were (four hundred and eighty-five) .....   | 485 |
| 2. The number of general ballots cast and found to be entirely blank, all of which were returned by us to the ballot box were (five) .....  | 5   |
| 3. The number of general ballots cast which were rejected by us as "void" and on which no vote was counted for any candidate, all of which are in the sealed package returned herewith, and on each of which ballot is indorsed the reason for such rejection, were (ten) ..... | 10  |
| 4. The number of general ballots cast on which votes were counted for one or more candidates, all of which were returned to the ballot box (except those protested as being marked for identification), were (four hundred and seventy) .....                                   | 470 |
| 5. The total number of ballots accounted for by us are .....  | 485 |

We certify the foregoing statement of ballots voted is correct in all respects.

Dated this (fifth) day of November (1895).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
*Board of Inspectors.*

**Statement and return of the votes for the offices of electors for president and vice-president.\***

- |   |     |
|---|-----|
| 1. The number of ballots cast on which votes were counted for any candidate for office, were four hundred and seventy .....                                 | 470 |
| 2. The number of ballots cast and counted on which there was no vote for the office of elector of president and vice-president, were nineteen .....         | 19  |
| 3. The whole number of ballots on which votes were counted for the office of elector of president and vice-president, were four hundred and fifty-one ..... | 451 |

\* Inspectors will note the addition of paragraph 4 incorporated in statement of return of votes for presidential electors used in addition to the form of headings used for offices where only one candidate is nominated by each party for an office. The same wording should be used for all offices where two or more candidates are nominated by the same party for the same office under one office heading.

## CONDUCT OF ELECTIONS AND CANVASS OF VOTES—FORMS. 157

4. The whole number of votes counted upon such ballots for the office of elector of president and vice-president were thirty-seven hundred and forty-one .....	3,741
5. Of which George E. Moulton received three hundred and five .	305
6. Benjamin F. Blair received three hundred and four .....	304
7. Clarence Van Deusen received three hundred and four .....	304
8. Samuel Andrews received three hundred and three .....	303
9. Charles Spicer received three hundred and three .....	303
10. Harry Taylor received three hundred and three .....	303
11. William Halloran received three hundred and three .....	303
12. J. Wesley Hamer received three hundred and three .....	303
13. Jacob W. Essegger received one hundred and sixty-five .....	165
14. Charles J. Edwards received one hundred and sixty-four .....	164
15. Melvin A. Rice received one hundred and sixty-four .....	164
16. George Sandhusen received one hundred and sixty-four .....	164
17. Calvin W. Withey received one hundred and sixty-four .....	164
18. Horatio Alderson received one hundred and sixty-four .....	164
19. Michael Byrnes received one hundred and sixty-four .....	164
20. David Hawey received one hundred and sixty-four .....	164
Total .....	<u>3,741</u>

### Statement and return of the votes for the office of (governor).

1. The number of ballots cast on which votes were counted for any candidate for office were (four hundred and seventy) .....	470
2. The number of ballots cast and counted on which there was no vote for the office of (governor) were (five) .....	5
3. The whole number of ballots on which votes were counted for the office of (governor) were (four hundred and sixty-five) . . .	<u>465</u>
4. Of which (Levi P. Morton) received (three hundred) .....	300
5. (David B. Hill) received (one hundred and sixty-five) .....	165
Total .....	<u>465</u>

### Statement and return of the votes for the office of (lieutenant-governor).

1. The whole number of ballots cast on which votes were counted for any candidate for office were (four hundred and seventy) . .	470
2. The number of ballots cast and counted on which there was no vote for the office of (lieutenant-governor) were (seven) .....	7
3. The whole number of ballots on which votes were counted for the office of (lieutenant-governor) were (four hundred and sixty-three) .....	<u>463</u>
4. Of which (Charles T. Saxton) received (three hundred and three)	303
5. (William F. Sheehan) received (one hundred and sixty) .....	160
Total .....	<u>463</u>



**Statement and return of the votes for the office of (county clerk).**

1. The whole number of ballots cast on which votes were counted for any candidate for office were (four hundred and seventy) . . .	470
2. The number of ballots cast and counted on which there was no vote for the office of (county clerk) were (ten) . . . . .	10
3. The whole number of ballots on which votes were counted for the office of (county clerk) were (four hundred and sixty) . . . .	<u>460</u>
4. Of which (John Doe) received (three hundred and fifteen) . . . .	315
5. (Richard Doe) received (one hundred and forty-five) . . . . .	<u>145</u>
Total . . . . .	<u>460</u>

The number of general ballots "protested as marked for identification" (all of which are in the sealed package returned herewith together with the void ballots) each of which have been indorsed by us "protested as marked for identification," the mark or marking to which objection was made being specified upon the back of each such ballot, and all of which were counted for the several candidates voted thereon in the foregoing returns, were (three) . . . . . 3

But such number does not include any ballot which was rejected by us as void. Such void ballots are included in our return as "void" ballots on which no vote for any candidate was counted and are marked upon the back thereof "void" and indorsed with the reason for so declaring them. They are in the sealed package returned herewith together with the ballots "protested as being marked for identification."

We certify the foregoing statement is correct in all respects.

Dated this (fifth) day of November, 1895.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
*Board of Inspectors.*

NOTE.—A similar certificate is to be made at the bottom of each sheet or half sheet of this return. If ballots are voted or any constitutional amendment or question or proposition submitted, a similar return is to be included. Two certified copies of the original statement and return are to be made.

**FORM No. 49.**

(See § 112, Election Law.)

**Proclamation of result.**

"Hear ye! hear ye!! hear ye!!! The whole number of votes given for the office of (governor), found in the box just canvassed, was (1090); of which number there were given for said office, for Roswell P. Flower (595), for Jacob Sloat Fassett (362), for Joseph W. Bruce (153)," (naming each person voted for, for the office of governor, and the number of votes given for him for that office).

"The whole number of votes given for the office of lieutenant-governor, found in the same box, was . . . ; of which there were given for that office, for William F. Sheehan, . . . , for John W. Vrooman . . . ." Proceed on with the votes given for the different candidates.

**ARTICLE VI.****County and State Board of Canvassers.****SECTION 130. Organization of county board of canvassers.**

- 131. Production of original statements and copies thereof.
- 132. Correction of clerical errors in election district statements.
- 133. Correction in state or county board of canvassers' statement.
- 134. Proceeding of state board of canvassers upon corrected statement.
- 135. Statement of canvass by county boards.
- 136. Decisions of county boards as to persons elected.
- 137. Transmission of statements of county boards to secretary of state.
- 138. Organization of state board of canvassers.
- 139. Canvass by state board.
- 140. Certificates of election.
- 141. Record in office of secretary of state of county officers elected.

**§ 130. Organization of county board of canvassers.—**The board of supervisors of each county except New York and Kings, shall be the county board of canvassers of such county. The boards of aldermen in the cities of New York and Brooklyn, respectively, shall be the county and city board of canvassers of their respective counties and cities. The members of the county board of canvassers of each county, except New York and Kings, shall meet at the office of the county clerk thereof on the Tuesday next after each election of public officers held in such county other than an election of town, city, village or district school officers held at a different time from a general election. Upon such meeting they shall choose one of their number chairman of such board. Such county clerk, or if he be absent or unable to act, the deputy county clerk of such county, shall be the secretary of such board. The secretary of the board shall thereupon administer the constitutional oath of office to the chairman of the board, who shall then administer such oath to each member, and to the secretary of the board. The members of the county and city board of canvassers of the county and city of New York, and of the county of Kings and city of Brooklyn, shall meet at the place for holding their regular meetings in the cities of New York and Brooklyn, respec-

tively, on the Tuesday next after each election of public officers held in such county or city, respectively, or any district thereof. Upon meeting, they shall choose one of their number chairman of such board of canvassers. The clerk of such board, respectively, shall be the secretary of such board, or in his absence or inability to serve, his chief deputy shall be the secretary of the board. The secretary of the board shall thereupon administer the constitutional oath of office to the chairman of the board, who shall then administer such oath to each member and to the secretary of the board. A majority of the members of any board of canvassers shall constitute a quorum thereof. If, on the day fixed for such meeting, a majority of any such board shall not attend, the members of the board then present shall elect the chairman of the board and adjourn to some convenient hour of the next day. If such board, or a majority thereof, shall fail or neglect to meet within two days after the time fixed for organizing such board, the supreme court, or any justice thereof, or county judge within such county, may compel the members thereof by writ of mandamus to meet and organize forthwith.

**If the county clerk do not appear** and if his deputy be also absent, the board has power to appoint a secretary in their place to perform the duties which appertain to that office. The same is true, if the county clerk shall be present but refuse to perform his duties. (*People ex rel. Daley v. Rice*, 129 N. Y. 449.)

**§ 131. Production of original statements and copies thereof.**—As soon as such board of county canvassers shall have been organized, the officer or board with which they were filed, shall deliver to such board of canvassers all the original statements of canvass and the certified copies thereof and the sealed packages of void and protested ballots. The copies of the original statements which have been delivered to members of the board or assessors shall then be delivered to the board. If any member of the county board of canvassers shall be unable to attend the first meeting of such board, he shall, at or before such meeting, cause to be delivered to the county clerk of such county all such copies of original statements delivered to him, and any original statement that may come into his possession. If, at the first

meeting of a county board of canvassers of any county, all such original statements of the result of the canvass of the votes cast at such election in all the election districts in the county shall not be produced before the board, it shall adjourn to some convenient hour of the same or the next day, and the county clerk of such county shall, by special messenger or otherwise, obtain such missing original statements, if possible, otherwise he shall procure one of the certified copies thereof in time to be produced before such board at its next meeting. At such first meeting, or as soon as an original statement of the result of the canvass of the votes cast in such election in every election district of the county shall be produced before such board, or a copy thereof, in case the original cannot be produced, the board shall, from such original statements and certified copies, and the sealed packages of void and protested ballots, proceed to canvass the votes cast in such county at such election.

**It is clearly the intention of the statute** that the official statement made after and in accordance with the proclamation of the result of the canvass, which is required to be certified to as correct over the signatures of the inspectors, shall form the basis of the estimate of the board of canvassers. (*Matter of Noyes*, 34 N. Y. St. Repr. 127.)

**The county board cannot estimate** the number of votes cast from the sample ballots attached to the inspectors' certificates instead of from the face of the return. (*People ex rel. Noyes v. Board*, 34 N. Y. St. Repr. 8; *Matter of Noyes*, id. 127; *People ex rel. Noyes v. Board*, 126 N. Y. 392.) It should be noted that the present law does not require sample ballots to be attached to the returns made by the inspectors.

§ 132. **Correction of clerical errors in election district statements.**— If, upon proceeding to canvass such votes, it shall clearly appear to any county board of canvassers that certain matters are omitted from any such statement or copy, which should have been inserted, or that any merely clerical mistakes exists therein, they shall have power, and such power is hereby given, to summon the inspectors of election whose names are subscribed thereto, before such board, and such inspectors shall forthwith meet and make such correction as the facts of the case require; but such inspectors shall not change or alter any decision before made

by them, but shall only cause their canvass to be correctly stated. The board of county canvassers may adjourn from day to day not exceeding three days in all, for the purpose of obtaining and receiving such corrected statements.

**The statute as to counting and certifying the votes** of electors of various offices is very plain and concise and local inspectors must count the votes they receive and certify them. The county canvassing boards must, upon those returns, declare the result. They have power to have corrected clerical errors made by local boards, or send for complete returns under the statute, but the power is nowhere given in the statute to a canvassing board to reject any vote that comes to it certified in due form by the local inspectors as having been cast at the election. (*Matter of Woods*, 5 Misc. Rep. 575.)

**A mandamus will lie** to compel the county board to send back to the inspectors for correction returns upon which the names of candidates are incorrectly given or misspelled. (*People ex rel. Munro v. Board*, 129 N. Y. 469.)

**Returns may be sent back** to the inspectors for correction in case of a clerical error but not for a recount. (*People ex rel. Noyes v. Board*, 126 N. Y. 392; *People ex rel. Fiske v. Devermann*, 83 Hun, 181.)

**Boards of canvassers have no power conferred upon them to correct frauds** or rectify mistakes, except clerical ones. Their duty is simply to add together the statements of results filed with them by inspectors. (*People ex rel. Blodgett v. Board*, 44 N. Y. St. Rep. 738.)

**The board of county canvassers has only ministerial and not judicial duties** to perform and cannot enter upon a judicial investigation to ascertain the genuineness of a return which the law required to be returned to it. Such return is favored by the presumption of official honesty and regularity. If the returns are not regular, the board should send them back to the inspectors for correction. (*People ex rel. Russell v. Board*, 46 Hun, 390; *People ex rel. Noyes v. Board*, 34 N. Y. St. Repr. 8; *Matter of Noyes*, id. 127; *People ex rel. Noyes v. Board*, 126 N. Y. 392; *People v. Cook*, 8 id. 67; *People ex rel. Deuchler v. Board*, 64 How. 337; *Matter of Felt*, 11 Abb. [N. S.] 207; *People v. Van Slyck*, 4 How. 297; *Ex parte Heath*, 3 Hill, 42; *Kutz v. Canvassers*, 12 Abb. N. C. 84.)

**A writ of mandamus will issue** to compel the canvassing board to send back to the inspectors, for correction, returns which do not show upon their face that any particular person received any votes whatsoever, and which do not contain a statement of the number of general ballots protested as "marked for identification." (*People ex rel. Ranton v. City of Syracuse*, 88 Hun, 203.)

§ 133. **Correction in state or county board of canvassers statements.**—The supreme court may, upon affidavit presented by any elector, showing that errors have occurred in

ny statement or determination made by the state board of canvassers, or by any board of county canvassers, or that any such board has failed to act in conformity to law, make an order requiring such board to correct such errors, or perform its duty in the manner prescribed by law, or show cause why such correction should not be made or such duty performed.

If such board shall fail or neglect to make such correction, or perform such duty, or show cause as aforesaid, the court may compel such board, by writ of mandamus, to correct such errors or perform such duty; and if it shall have made its determination and dissolved, to reconvene for the purpose of making such corrections or performing such duty. Such meeting of the board of state or county canvassers shall be deemed a continuation of its regular session, for the purpose of making such corrections, or otherwise acting as the court may order, and the statements and certificates shall be made and filed as the court shall direct, and shall stand in lieu of the original certificates and statements so far as they shall vary therefrom, and shall in all places be treated with the same effect as if such corrected statement has been a part of the original required by law. A special proceeding authorized by this section must be commenced within four months after the statement or determination in which it is claimed errors have occurred was made, or within four months after it was the duty of the board to act in the particular or particulars as to which it is claimed to have failed to perform its duty.

**A mandamus will not lie** to compel the board of county canvassers to canvass the returns before them when it is proven to the court that such returns are illegal because of a violation of the statute by the inspectors receiving and counting certain votes. (*People ex rel. Munro v. Board*, 9 N. Y. 469.)

**A mandamus is proper** directing the board of county canvassers not to canvass irregular returns. (*People ex rel. Russell v. Board*, 46 Hun, 10.)

**This section in effect re-enacts** chapter 460 of the Laws of 1880, heretofore repealed, authorizing the supreme court in proceedings by writ of mandamus to correct errors in the determination of boards of county canvassers and to compel them to reconvene and declare a truthful result of the returns before them. (*People v. Canvassers*, 64 How. 201, 367, 357, 4; *Kutz v. Canvassers*, 12 Abb. N. C. 84; *People ex rel. Noyes v. Board*, 1 N. Y. St. Rep. 8; *Matter of Noyes*, id. 127; *People ex rel. Noyes v.*

*Board*, 126 N. Y. 392). But see *People v. Supervisors* (12 Barb. 217), holding that a mandamus will not lie to compel the board of canvassers after it has performed its duties and has adjourned *sine die* to reassemble and correct its decision.

**The Supreme Court at Special Term cannot issue** a writ of peremptory mandamus which is by force of its terms and commands, in effect, an order which restrains the board of state canvassers engaged in the performance of, or about to perform, a duty imposed by the statute. (Code Civ. Pro. § 605; *People ex rel. Derby v. Rice*, 129 N. Y. 461.)

**Where an official board acts only ministerially** the court has a clear right to direct its ministerial action. (*Matter of Noyes*, 43 N. Y. St. Repr. 127.)

**The county board is merely an administrative body.**—It cannot exercise the high judicial function of passing upon the constitutionality of a statute. Nor will the court direct the board to do what they have no power in themselves to do, but must confine itself to correcting errors they may have made. (*Matter of Woods*, 5 Misc. Rep. 575.)

**For the settlement of contests over elections** courts exist, with adequate powers to investigate the causes of complaints, and for that end to take proofs and to judge accordingly. Boards of canvassers have no such powers. (*People ex rel. Derby v. Rice*, 129 N. Y. 461.)

**The court has no power to interfere** by mandamus with the canvassing of returns regular upon their face by the county board when it is simply alleged that fraud has been committed in the counting of votes by the inspectors. If there were two returns, one true and the other false, the court might compel the board to canvass the true one. (*People ex rel. Gregg v. Board*, 54 Hun, 595.)

**Until the legal presumption is overcome** that state officers will perform their statutory duties, a peremptory mandamus will not lie. (*People ex rel. Derby v. Rice*, 129 N. Y. 461.)

**The question whether fraud has been committed** in making the returns cannot be properly tried in a proceeding to compel the board of county canvassers to canvass the returns. This question can only be tried in a contest before the proper tribunal. (*People ex rel. Hatzel v. Board*, 58 How. 141.)

**The court should not permit to be canvassed** by the state board a return containing the result of an illegal and erroneous canvass by the board of county canvassers in excess of its jurisdiction. (*People ex rel. Daley v. Rice*, 129 N. Y. 449.)

**The public has an interest**, quite as great, perhaps, as an individual candidate, in the result of an election, and any citizen has the right to invoke the aid of the court in compelling boards of canvassers to perform their official duties. (*People ex rel. Daley v. Rice*, 129 N. Y. 449.)

**A peremptory writ of mandamus is proper** to compel the board of canvassers to reject a second return. (*People ex rel. Fiske v. Devermann*, 83 Hun, 81.)

§ 134. **Proceeding of state board of canvassers upon corrected statements.**— When a new or corrected statement or certificate made by a board of county canvassers, under the provisions of the preceding section, shall vary from the original statement or certificate with reference to votes for the offices of governor, lieutenant-governor, judge of the court of appeals, justice of the supreme court, secretary of state, comptroller, state treasurer, attorney-general, state engineer and surveyor, senator or representative in congress, or either of them, the county clerk, or other officer with whom the same is filed, shall forthwith prepare and transmit certified copies thereof to the officials mentioned in section one hundred and thirty-seven of this act, in the manner therein prescribed. The secretary of state shall thereupon file in his office the certified statement received by him, and obtain from the governor and comptroller the certified statements received by them, or either of them, and file the same in his office. He shall then, and within five days after any such certified copy of statements has been received by him, appoint a meeting of the state canvassers to be held at his office, or the office of the state treasurer or comptroller, and the said board of state canvassers shall, from such certified copies or statements, proceed to make a new statement of the whole number of votes given at the election referred to in such statement for the various offices above mentioned, or either of them, so far as the number of votes for any particular office or candidate has been changed by such new or corrected statements in the manner provided by section one hundred and thirty-nine of this act. Upon the new or corrected statement thus made, the said board of state canvassers shall then proceed to determine and declare what person or persons whose votes are affected by such new or corrected statement have been, by the greatest number of votes, duly elected to the various offices, or either of them, and the statement, certificate and declaration thereupon made shall stand in lieu of the original statement, declaration and certificate so far as the latter are changed by the former. The supreme court shall, upon application of a candidate interested in the result of such new or corrected state-



ment, or of any elector in the county from which such statement came, and upon proof by affidavit that the same has been made and filed as herein provided, and that the state board of canvassers has neglected or refused to act thereon within the time above prescribed, require said board to act upon such new or corrected statement, and canvass the same as above provided, or show cause why it should not do so; and in the event of the failure of such board to act upon such new or corrected statement and canvass the same, or show cause as aforesaid, the court may compel such board by writ of mandamus to act upon and canvass such new or corrected statement, and make a statement, certificate and declaration in accordance therewith; and if the state board of canvassers shall have made a determination, and adjourned or dissolved before receiving such new or corrected statement, the court may compel such board to reconvene for the purpose of carrying out its order and direction; and for that purpose the meeting of said board shall be deemed a continuance of its regular session. The state board of canvassers and the secretary of state shall respectively have the same powers, and discharge the same duties with reference to statements made under this section, that they have and are charged with under the provisions of section one hundred and thirty-nine, and one hundred and forty, of this act.

§ 135. **Statements of canvass by county boards.**— Upon the completion by a county board of canvassers of their canvass of the votes so cast in such county, they shall make separate statements thereof as follows: One statement as to all the votes, if any, so cast for all the candidates for each office of elector of president and vice-president of the United States, for which the electors of such county were entitled to vote at such election; another statement as to all the votes so cast for the candidates for each state officer, except members of the assembly, and for each office of representative in congress for which the electors of such county, or any portion thereof, are entitled to vote; another statement as to all the votes, if any, cast upon every proposed constitutional amendment or other proposition or question duly submitted to all the electors of the state at such election; another statement

as to all the votes cast for all the candidates for each office of member of assembly for which the electors of such county, or any portion thereof, were entitled to vote at such election; another statement as to all the votes, if any, so cast for all the candidates for each county or other office, and office of school commissioner, for which the electors of such county, or any portion thereof, were entitled to vote at such election; another statement as to all the votes, if any, so cast upon any proposition or question upon which only the electors of such county were entitled to vote at such election. Each such statement shall set forth, in words written out at length, all the votes so cast for all the candidates for each such office; and if any such office was to be filled at such election by the electors of a portion only of such county all the votes cast for all the candidates for each office in any such portion of the county designating by its proper district number or other appropriate designation, the names of each such candidate and the number of votes so cast for each, the whole number of votes so cast upon any proposed constitutional amendment or other proposition or question, and of all the votes so cast in favor of and against the same respectively. In the cities of New York and Brooklyn the county board shall make a separate statement of the votes cast for all the municipal offices voted for by the electors of such respective cities or any portion thereof. If, upon such canvass, any statement or duly certified copy of statement of the result of the canvass of the votes of any election district in such county, there shall be included any ballot indorsed by the inspectors to the effect that it was objected to as marked for identification, the county board of canvassers shall count such ballot as though not so marked, unless otherwise ordered by a court of competent jurisdiction, but they shall add to each appropriate statement in which the counting of any such ballot or any portion thereof is included, a statement of the whole number of ballots so indorsed and counted, and the number of votes on such ballot so counted for each candidate. If, upon such canvass, any statement or duly certified copy of a statement of the result of the canvass of the votes of any election district shall be included any ballot indorsed by the inspectors to the

effect that it was rejected as void, the county board of canvassers shall not count such ballot unless otherwise ordered by a court of competent jurisdiction, but they shall add to each appropriate statement, a statement of the whole number of ballots so indorsed, and the number of votes on such ballots not counted for each candidate; such statements required by this section shall each be certified as correct over the signatures of the members of the board, or a majority of them, and shall be filed and recorded in the office of the county clerk of such county. At the conclusion of the canvass of each election district, the void and protested ballots of such district shall be sealed by the board, and when the whole canvass shall be completed such sealed packages shall be filed in the office of the officer or board with whom they were originally filed, together with the original statements of canvass. The certified copies of such original statement of canvass shall be retained in the office of the secretary of the board of canvassers. The sealed packages of void and protested ballots may be destroyed at the end of six months from the time of the completion of such canvass, unless otherwise ordered by a court of competent jurisdiction.

**The statements of the county boards** cannot lawfully contain anything save the whole number of votes given in each town and district, the names of the candidates and the number of votes given to each. (*People ex rel. Derby v. Rice*, 129 N. Y. 461.)

It was held in *People ex rel. Daley v. Rice* (129 N. Y. 449) that where the county clerk, acting as secretary to the board of county canvassers, refused to sign and attest the statements of canvass prepared by them, one of their number could be appointed by the board to perform such acts. But it should be noticed that the present law does not require the county clerk to sign the statements. The signatures of a majority of the board of canvassers only is necessary.

**§ 136. Decisions of county board as to persons elected.**— Upon the completion of such statements, each county board of canvassers shall determine what person has been so elected to each office of member of assembly to be filled by the electors of such county, if constituting one assembly district, or in each assembly district therein, if there be more than one, and each person elected to each county office of such county to be filled at such election, and if there be more than one school

commissioner district in such county, each person elected to the office of school commissioner to be filed at such election in each such district. The county clerk of the county of Hamilton shall forthwith transmit to the county clerk of the county of Fulton, a certified copy of the statement so filed and record it in his office, of the county board of canvassers of Hamilton county, as to all the votes so cast in Hamilton county for all the candidates and for each of the candidates for the office of member of assembly of the assembly district composed of Fulton and Hamilton counties; and the county clerk of Fulton county shall forthwith deliver the same to the Fulton county board of canvassers, who shall from such certified copy, and from their own statement as to the votes so cast for such office in Fulton county, determine what person was at such election, elected to such office. In the cities of New York and Brooklyn the statement of the county board as to the persons elected to municipal offices therein, shall be filed in the office of the county clerk, and a copy thereof in the office of the city clerk, or clerk to the board of aldermen. Such board of each county shall determine whether any proposition or question submitted to the electors of such county only, has been adopted or rejected. All such determinations shall be reduced to writing, and signed by the members of such board, or a majority of them, and filed and recorded in the office of the county clerk of such county, who shall cause a copy thereof, and of the statements filed and recorded in his office, upon which such determination was based, to be published in at least one newspaper published in such county, and in such other newspapers published therein as the county board of canvassers shall direct. The clerk of each county shall prepare as many certified copies of each certificate of the determination of the county board of canvassers of such county as there are persons declared elected in such certificate, and shall, without delay, transmit such copies to the persons therein declared to be elected, respectively.

§ 137. **Transmission of statements of county boards to the secretary of state.**—Upon the filing in the office of the county clerk of a statement of the county board of canvassers as to the votes cast for candidates for the offices of electors

of president and vice-president, or as to the votes cast for candidates for state offices, except member of assembly and for representatives in congress, or as to the vote cast upon any proposed constitutional amendment or other proposition or question submitted to all the electors of the state, such county clerk shall forthwith make three certified copies of each such statement, and, within five days after the filing thereof in his office, transmit by mail one of such copies to the secretary of state, one to the governor, and one to the comptroller. The governor and comptroller shall forthwith, upon the receipt thereof by them deliver such certified copies to the secretary of state. If any certified copies shall not be received by the secretary of state on or before the last day of November next after a general election, or within twenty days after a special election, he shall dispatch a special messenger to obtain such certified copy from the county clerk required to transmit the same, and such county clerk shall immediately upon demand of such messenger at his office make and deliver such a certified copy to such messenger who shall, as soon as practicable, deliver it to the secretary of state. The county clerk of each county shall transmit to the secretary of state, within twenty days after a general election, and within ten days after a special election, a list of the name and residence of each person determined by the board of county canvassers of such county to be elected member of assembly, school commissioner, and to any county office; and on or before the fifteenth day of December in each year a certified copy of the official canvass of the votes cast in each such county by election districts at the last preceding general election. The secretary of state shall obtain from the governor and comptroller such certified copies so transmitted to them and file the same in his office.

If the county clerk fails or refuses to send certified copies of the statements of county boards to the secretary of state and other state officers the county board may cause statements attested by one of their number acting as secretary *pro tempore* to be transmitted, and such statements shall be filed and considered by the board of state canvassers as the properly certified result of the canvass of the board of county canvassers. (*People ex rel. Daley v. Rice*, 129 N. Y. 449.)

**The duties of the county clerk are purely ministerial.**—He, acting as secretary to the board of county canvassers, cannot sit in judgment upon the action of that body. The statements which the board actually makes it is the duty of the secretary to attest, and the law casts upon him neither the obligation nor the responsibility of seeing that the board has discharged its duty in a manner consistent with his views of the law. (*People ex rel. Daley v. Rice*, 129 N. Y. 449.)

§ 138. **Organization of state board of canvassers.**—The secretary of state, attorney-general, comptroller, state engineer and surveyor, and treasurer, shall constitute the state board of canvassers, three of whom shall be a quorum. If three of such officers shall not attend on a day duly appointed for a meeting of the board, the secretary of state shall forthwith notify the mayor and recorder of the city of Albany to attend such meeting, and they shall forthwith attend accordingly, and shall, with the other such officers attending, constitute such board. The secretary of state shall appoint a meeting of such board at his office, or at the office of the treasurer or comptroller on or before the fifteenth day of December next after each general election, and within forty days after each special election, to canvass the statement of boards of county canvassers of such election. He shall notify each member of the board of such meeting. The board may adjourn such meeting from day to day, not exceeding a term of five days.

§ 139. **Canvass by state board.**—Such board shall at such meeting proceed to canvass the certified copies of the statements of the county board of canvassers of each county in which such election was held. If any member of such board shall dissent from a decision of the board, or shall deem any of the acts or proceedings of the board to be irregular, and shall protest against the same, he shall state such dissent or protest in writing signed by him, setting forth his reasons therefor, and deliver it to the secretary of state, who shall file it in his office. Upon the completion of such canvass, such board shall make separate tabulated statements signed by the members of such board, or a majority thereof, of the whole number of votes cast for all the candidates for each office shown by such certified copies to have been voted for, and of the whole number of votes cast for each of such candidates, indicating the number of votes cast in each county therefor,

and if the voters of not more than one district of the state were entitled to vote for such candidates therefor, the name and number of such district, and the name of each candidate and the determination of the board of the persons thereby elected to such office; the whole number of votes shown by such certified copies to have been cast upon each proposed constitutional amendment or other proposition or question shown by such copies to have been voted upon, the whole number of votes cast in favor of and against each, respectively, and the determination of the board as to whether it was adopted or rejected. Each such statement, dissent and protest, shall be delivered to the secretary of state, and recorded in his office.

**The state board cannot inquire into the manner of making the county board's return.** (*People ex rel. Daley v. Rice*, 129 N. Y. 449.)

**The legislature has not clothed either the state officers or the subordinate boards of inspectors, with power to hear and determine, by the means of evidence *aliunde* the return, the intention of the voters.** (*People v. Cook*, 8 N. Y. 67.)

**The office of the state board of canvassers is purely ministerial.**— There is no latitude afforded by the law for any determination by such board outside of the official returns which the statute prescribes as the duty of the county canvassers to make and file. (*People ex rel. Derby v. Rice*, 129 N. Y. 461; *People ex rel. Sherwood v. Board*, id. 360.)

**The state board cannot consider in making its canvass other papers or affidavits than the returns regularly laid before them by the county boards.** But a mandamus will not issue to compel the secretary of state to refrain from placing before them such other papers or to compel him to return them to the county canvassers. (*People ex rel. Sherwood v. Rice*, 129 N. Y. 391.)

**The state board cannot inquire into the eligibility of a candidate who has received votes for an office as shown upon the returns before them.** But a mandamus will not issue to compel them to deliver a certificate of election to such a person if it clearly appear to the court that he is ineligible. (*People ex rel. Sherwood v. Board*, 129 N. Y. 360.)

§ 140. **Certificates of election.**— The secretary of state shall thereupon forthwith transmit a copy, certified by his signature and official seal, of each such statement as to votes cast for candidates for any office, to the person shown thereby to have been elected thereto. He shall prepare a general certificate, under the seal of this state, and attested by him as secretary thereof, addressed to the house of representatives of the

United States, in that congress for which any person shall have been chosen, of a due election of the person so chosen at each election as representative of this state in congress; and shall transmit the same to the house of representatives at their first meeting. If either of the persons so chosen at such election shall have been elected to supply a vacancy in the office of representative in congress, it shall be mentioned by the secretary of state in the statements to be prepared by him.

§ 141. **Record in office of secretary of state of county officers elected.**—The secretary of state shall enter in a book to be kept in his office the names of the respective county officers elected in this state, including school commissioners, specifying the counties and districts for which they were severally elected, and their places of residence, the offices to which they were respectively elected, and the terms of office.



**ARTICLE VII****Electors of President and Vice-President, and Representatives, in Congress.****SECTION 160. Representatives in congress.**

- 161. Electors of president and vice-president.
- 162. Meeting and organization of electoral college.
- 163. Secretary of state to furnish list of electors.
- 164. Vote of the electors.
- 165. Appointment of messenger.
- 166. Other lists to be furnished.
- 167. Compensation of electors.
- 168. Laws repealed.

§ 160. **Representatives in congress.**—Representatives in the house of representatives of the congress of the United States shall be chosen in the several congressional districts at the general election held therein in the year eighteen hundred and ninety-six and every second year thereafter. If any such representative shall resign, he shall forthwith transmit a notice of his resignation to the secretary of state, and if a vacancy shall occur in any such office, the clerk of the county in which such representative shall have resided at the time of his election, shall, without delay, transmit a notice thereof to the secretary of state.

§ 161. **Electors of president and vice-president.**—At the general election in November, preceding the time fixed by the law of the United States for the choice of president and vice-president of the United States, there shall be elected by general ticket as many electors of president and vice-president as this state shall be entitled to, and each elector in this state shall have a right to vote for the whole number, and the several persons to the number required to be chosen having the highest number of votes shall be declared and be duly appointed electors.

§ 162. **Meeting and organization of the electoral college.**—The electors of president and vice-president shall convene at the capitol on the second Monday in January next following their election, and those of them who shall be assembled

at twelve o'clock, noon, of that day, shall immediately at that hour fill, by ballot, and by plurality of votes, all vacancies in the electoral college occasioned by death, refusal to serve or neglect to attend at that hour, of any elector, or occasioned by an equal number of votes having been given for two or more candidates. The electoral college being thus completed, they shall then choose a president, and one or more secretaries from their own body.

§ 163. **Secretary of state to furnish lists of electors.**—The secretary of state shall prepare three lists, setting forth the names of such electors, and the canvass under the laws of this state, of the number of votes given for each person for whose election any and all votes were given, together with the certificate of determination thereon, by the state canvassers; procure to the same the signature of the governor; affix thereto the seal of the state, and deliver the same thus signed and sealed to the president of the college of electors on the second Monday in January.

§ 164. **Vote of the electors.**—Immediately after the organization of the electoral college, the electors shall then and there vote by ballot for president and vice-president, one of whom at least shall not be an inhabitant of the same state with themselves. They shall name in their ballots the person voted for as president, and in distinct ballots, the person voted for as vice-president. They shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and after annexing thereto one of the lists received from the secretary of state, they shall seal up the same, certifying thereon, that lists of the votes of this state for president and vice-president are contained therein.

§ 165. **Appointment of messenger.**—The electors shall then, by a writing under their hands, or under the hands of a majority of them, appoint a person to take charge of the list so sealed up, and to deliver the same to the president of the senate, at the seat of government of the United States, before the third Monday in the said month of January. In case there shall be no president of the senate at the

seat of government, on the arrival of the person intrusted with the lists of the votes of the electors, then such person shall deliver the lists of votes in his custody into the office of the secretary of state of the United States.

§ 166. **Other lists to be furnished.**—The electors shall also forward forthwith, by the postoffice in the city of Albany, to the president of the senate of the United States at the seat of government, and deliver forthwith to the judge of the United States court for the northern district of the state of New York, similar lists signed, annexed, sealed up and certified in the manner aforesaid.

§ 167. **Compensation of electors.**—Every elector of the state for the election of a president and vice-president of the United States, who shall attend at any election of those officers and give his vote at the time and place appointed by law, shall be entitled to receive for his attendance at such election, the sum of fifteen dollars per day, together with ten cents per mile each way, from his place of residence, by the most usual traveled route, to the place of meeting of such electors, to be audited by the comptroller upon the certificate of the secretary of state, and paid by the treasurer.

§ 168. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

#### SCHEDULE OF LAWS TO BE REPEALED BY THE ELECTION LAW.

Laws of—	Chapter.	Sections.
1842.....	130.....	All.
1844.....	331.....	All.
1847.....	240... ..	All.
1854.....	286.....	All.
1855.....	513.....	All.
1856.....	79.....	All.
1860.....	480.....	All.
1870.....	134.....	All.
1870.....	388.....	All.
1871.....	712.....	All.
1875.....	138.....	All.

Laws of—	Chapter.	Sections.
1876.....	287.....	All.
1877.....	322.....	All.
1878.. ..	354.....	All.
1880.....	56.....	All.
1880.....	366.....	All.
1880.....	437.....	All.
1880.....	460.....	All.
1880.....	553.....	All.
1881.....	137.....	All.
1881.....	163.....	All.
1882.....	154.....	All.
1882....	366.....	All.
1882.....	410.....	1839 to 1844 in- clusive, 1846, 1847 and 1848; 1850 to 1861 in- clusive, 1864 to 1866 inclusive, and 1868 to 1929 inclusive, and 1931.
1883.....	380.....	All.
1883.....	422.....	All.
1885.....	446.....	All.
1887.....	265.....	All.
1888.....	583.....	For sections re- pealed in title XX, as amended, see chapter 236, Laws 1891, in this schedule.
1889.....	1.....	All.
1890.....	117.....	All.
1890.....	169.....	All.
1890.....	262.....	All.
1890.....	321.....	All.
1890.....	355.....	All.

Laws of—	Chapter.	Sections.
1891.....	7.....	All.
1891.....	236.....	Sections 3 to 25 inclusive, all after the word "board" in the last line of section 26, and sections 27 to 32 inclusive, of title XX of chapter 583, Laws of 1888, as amended by chapter 236, Laws 1891.
1891.....	296.....	All.
1891.....	336.....	All.
1892.....	680.....	All.
1893.....	233.....	All.
1893.....	274.....	All.
1893.....	370.....	All.
1894.....	61.....	All.
1894.....	275.....	All.
1894.....	302.....	All.
1894.....	348.....	2, 3, 4, 5 and 6.
1895.....	810.....	All.
1895.....	909.....	All.
1895.....	991.....	All.
1895.....	992.....	All.
1895.....	993.....	All.
1895.....	1034.....	All.

# Myers Automatic Ballot Machine.

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## CHAP. 764.

AN ACT to enable towns and cities of this state to use the Myers automatic ballot machine at all elections therein.

BECAME a law May 24, 1894, with the approval of the governor. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows :*

§ 1. **Use of ballot machines in towns and cities.**—The common council of any city and the town board of any town within this state may adopt the Myers automatic ballot machine for use at all elections, and thereupon it shall be lawful to use such ballot machines for the purpose of voting for all public officers to be voted for by the voters of such town or city, or any part thereof, and upon all constitutional amendments or propositions, or questions which may lawfully be submitted to such voters, and for registering and counting the ballots at such elections.

§ 2. **Definitions.**—The following terms as used within this act shall be construed to mean as follows :

*Cabinet.*—The Myers automatic ballot machine as a whole.

*Voters' compartment.*—That part of the ballot machine occupied by the voter in voting.

*Counted\* compartment.*—The closed portion of the ballot machine containing the automatic mechanical counters.

*Counters.*—The registering dials in the counter compartment.

*Public counter.*—The exposed dial at the front of the ballot machine which registers the total number of electors voting.

*Partition plate.*—The metal partition dividing the voters' compartment from the counter compartment.

*Push knobs.*—The knobs projecting from the partition plate into the voters' compartment and by which the elector registers his vote.

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\* So in the original.

*Keyboard.*—The face of the partition plate within the voters' compartment.

*Ballot frames.*—The metallic frames within which the ballots are secured upon the keyboard.

*Ballots.*—The tabulated lists of offices and nominees respectively, therefor, or succinct statements of the constitutional amendments or other questions or propositions submitted, arranged vertically in pairs, successively captioned "for" and "against," printed on cardboard or heavy paper and of dimensions, colors and type as herein specified to be placed within the ballot frames, posted at the polls and given to the inspectors as in this act prescribed.

*Ballot captions.*—The headings upon which are printed the name or other appropriate designation of the party or other nominees, constitutional amendments, questions or propositions submitted, to be placed in a frame provided therefor, upon the keyboard above each vertical column of nominees, constitutional amendments, questions or propositions, and to correspond therewith in material and color.

*Diagram poster.*—A complete set of ballots and ballot captions forming a fac-simile of those upon the keyboard and to be posted at the polls.

*Counter labels.*—The cards or labels placed in receptacles upon the face of the respective counters attached to the back of the partition plate within the counter compartment, having printed thereon the name of the nominee, or a statement of the amendment, question or proposition submitted, successively, following the words "for" and "against" placed directly opposite the corresponding name, amendment, question or proposition as it appears upon the face of the partition plate within the voters' compartment and being of the same material and color as its said opposite.

*Instruction cards.*—The directions as to method and manner of voting and statement of the penal provisions relating to the election code, and to be posted at the polls.

The word nominee, is to be construed to mean, any persons for whom an elector may vote at the election.

*Town.*—The word "town" as herein used shall be construed to mean such town as shall have adopted the Myers' ballot machine as prescribed in section one.

*City.*—The word “city” as herein used shall be construed to mean such city as shall have adopted the said ballot machine as prescribed in section one.

§ 3. **Provisions for equipment of polling place.**—The town board of each town and the common council of each city shall provide for each election necessary polling places, and shall provide for each polling place, at each election, the necessary ballot machines in complete working order, with ballots, ballot captions and counter labels in their proper places therein, and with the dials of the labeled counters set at nine, guard rails, inspectors’ table, and other furniture and equipment of such polling place necessary for the lawful conduct of the election thereat, put the inspectors of election in possession thereof and deliver to them the keys of the ballot machine therein, at least forty minutes before the opening of the polls for holding an election. The town board of each town and the common council of each city shall care for the ballot machine, furniture and equipment of each polling place when not in use in elections.

§ 4. **Arrangement of the polling place.**—The ballot machines at each polling place shall be so placed as to be at least three feet from the wall of the room and at least three feet from the outer guard-rail. There shall be two guard-rails, called the out and inner rails. The outer rail shall be so placed as to bar access to within three feet or more of the ballot machine with openings or gateways therein leading to and from the inspectors’ table, which shall be at least four feet from the ballot machines. The inner guard-rail shall extend to a point at or near the inspectors’ table from a fixture on the ballot-machine placed between the entrance and exit doors. Such other guard-rails may be used as shall seem necessary or convenient. The ballot-machine and every part of the polling place, except the interior of the ballot-machine, shall be in plain view of the election officers and person just outside the guard-rails.

§ 5. **Providing ballots.**—The county clerk of the county shall provide, at the county’s expense, the requisite number of ballots, ballot captions, counter labels and instruction cards for each polling place in such town and city for each election



to be held thereat, except town meetings and city and village elections and elections of school officers not held at the same time as the general election. If a city or village election or a town meeting for the election of public officers shall be held upon a different day from a general election, the clerk of such city, village or town shall provide, at the expense of such city, village or town, the requisite number of ballots, ballot captions, counter labels and instruction cards for each polling place. The ballots, ballot captions, counter labels and instruction cards shall be printed and in possession of the clerk charged with providing them and open to the public inspection four days before the election, except those for a village election or a town meeting held at a different day from the general election shall be so printed, in possession and open to public inspection two days before such village election or town meeting. In any town, village, city or county where the Myers automatic ballot machine has been or may be adopted for use at elections, the voting precincts or districts therein may be arranged by the officers charged by law with such duty, so as to contain not more than six hundred voters each. (*Thus amended by chap. 73, Laws 1895.*)

**§ 6. Description of ballot captions, ballots, counter labels and instruction cards.**— Ballot captions shall be of cardboard or heavy paper, four inches long by three and three-fourths inches wide and shall have printed thereon, in plain, clear type as large as the space will reasonably permit, the party or other appropriate designation of the nominees, amendments, questions or other propositions submitted. Ballots shall be of as many kinds as there are political parties or titles represented by certificates of nominations duly filed, or constitutional amendments, questions or other propositions submitted, and shall be of cardboard or heavy paper, three and five-eighths inches wide, spaced by cross lines one and eleven-sixteenths inches apart, between centers of lines, except the upper one should be thus spaced, four inches from the top and upon the ballot shall be printed in plain, clear type, not smaller than pica, the name of the office and under it the name of the candidate or nominee therefor in plain, clear type, known as great primer ionic, as large as the width of the ballot will

permit, or a plain, concise statement of the amendment, question or proposition submitted under successive captions "for" and "against," with or without an index hand pointing (when placed in the ballot frame) to the push knob used when voting by that ballot. Counter labels shall be of cardboard, or heavy paper, three-eighths of an inch wide by three inches long, upon which shall be printed the name or other suitable designation of the nominee, amendment, question or other proposition submitted. Should any party fail to make a nomination for an office, the ballot in that party's column upon the key-board on the horizontal line devoted to that office shall be left blank and its push-knob to the right and opposite thereto shall be capped so as to be inoperative. Should two or more parties nominate the same person for the same office, his name shall be printed upon the ballot of the party which shall first nominate him, provided such nominee within two days after his second nomination may by a written instrument acknowledge as deeds are required to be acknowledged for record, and filed with the county clerk of the county, designate which one of such political parties in whose column he desires his name to appear, and the county clerk shall prepare his ballot for that party, and the ballots of the other party or parties which shall have nominated him shall be left blank for that office, and the corresponding push-knob or push-knobs to the right of and opposite thereto shall be capped so as to be inoperative. If two or more officers are to be elected to the same office for different terms, the term for which each is nominated shall be designated on the ballot. If, in any congressional district, one congressman is to be elected for a full term and another to fill a vacancy, the ballot containing the name of each nominee shall designate the congress for which he is nominated. The ballot captions, ballots and counter labels of the several political parties or other nominating bodies, and the ballots for and against constitutional amendments or other propositions or questions, shall be designated from each other by distinctive colors; and, so far as is possible, the colors to be used to distinguish the candidates of the different political parties or other nominating bodies shall be those prescribed by the present usage of

those towns in which such ballot machines have heretofore been used. The instruction cards shall state the prescribed colors of the party ballots and other ballots, and ballot captions, and give a summary of the laws punishing violations of the election law, with such other information as shall seem pertinent and advisable.

**§ 7. Number of ballot captions, ballots, counter labels, and instruction cards.**— Four ballots of each kind shall be provided for each polling-place. Four instruction cards printed in English and four printed in such other language or languages as shall be prescribed by the board of supervisors of the county, shall be provided for each polling-place. They shall be printed in clear type so as to be easily read. Four complete sets of ballot captions and two complete sets of counter labels shall also be provided for each polling place.

**§ 8. Correction of mistakes.**— Upon affidavit presented by any voter that an error or an omission has occurred in the printing of the ballots, ballot captions or counter labels, the supreme court or a justice thereof, may make an order requiring the county clerk or other officer or board charged with the duty in respect to which such error or omission occurred, to correct such error or show cause why it should not be corrected. The county clerk or other officer or board shall, on their own motion, correct any palpable error in the ballots, ballot captions, counter labels or instruction cards which can be corrected without interfering with their timely distribution.

**§ 9. Distribution of ballots.**— The county clerk charged with the duty of providing ballots, ballot captions, counter labels, and instruction cards, shall on Saturday before the election in which they are to be used, deliver to the clerk of each town and to the city clerk of each city in the county, the ballots, ballot captions, counter labels, and instruction cards required for each polling place in such town or city. They shall be so delivered in two equal and similar sealed packages for each election district, each marked upon the outside thereof with the designation of the election district for which it is intended. Receipts, specifying the number and kind of packages, shall be given by each town and city clerk,

and filed with the county clerk, who shall keep a record thereof, specifying the time and manner of the delivery. Each town and city clerk receiving such packages shall cause one of them to be delivered unopened and with its seals unbroken, to the inspectors of the election district marked thereon, at least thirty minutes before the opening of the polls, and shall take a receipt from such inspectors, specifying and describing the package, which receipt shall be filed in the office of such clerk; from the contents of the other package he shall, not later than the day preceding the election, place, or cause to be placed, in the proper receptacles in each ballot-machine the ballot captions, ballots and counter labels in the order as officially published, and shall post instruction cards and diagram posters within the polling-room, accessible to voters, and set all labeled counters at ninety-nine hundred and ninety-nine. City and town clerks, charged with the duty of providing ballots, ballot captions, counter labels and instruction cards shall, in like manner, distribute them and take receipts therefor within their respective cities and towns. Such receipts shall be filed in the respective offices of the city and town clerks.

§ 10. **Lost ballots.**— If the ballots, ballot captions, counter labels or instruction cards shall not be furnished to the town or city clerk as required herein, or if after being furnished and delivered they, or any of them shall be lost, destroyed or stolen, the clerk of such town or city shall cause other ballots, as nearly in the form as those lost, destroyed or stolen, as possible, captions, counter labels or instruction cards to be prepared, and deliver them to the inspectors of election in their several election districts, and the substituted ballots, ballot captions, counter labels or instruction cards shall be used at the election in the same manner, as near as may be, as those lost, destroyed or stolen. The inspectors may correct palpable errors therein and shall, in their statement of the election, specify such correction as made by them.

§ 11. **Preparation for voting.**—The inspectors of election and the poll clerks shall meet at their respective polling places in each election district forty minutes before the time designated for the opening of the polls therein. The inspectors

shall choose one of their number chairman, if not already so chosen and present. They shall there have the ballots, ballot captions, counter labels and instruction cards, and shall break the package thereof, make and post conspicuously, and so as to be accessible, one or more diagram posters, two or more instruction cards, and, if they shall be printed in different languages, at least two in each such language, at said polling place. The diagram posters and instruction cards so posted shall not be taken down, torn, defaced or mutilated at such elections. The chairman shall retain one complete set of ballots, ballot captions and counter labels for use within the ballot machine, if needed. The inspectors shall then enter the voters' compartment of the ballot machine through the entrance door, and, if not already done, the chairman shall, in the presence of the inspectors, adjust and secure within the frames upon the key-board the ballot captions and ballots in the vertical numbered columns and to the left side of the push-knobs of the same color as the ballots, and arranged in the same order as on the diagram posters. The chairman shall then, in an audible voice, read from the said columns consecutively, beginning with the column number one, the caption, and the ballots thereunder, in the order that they appear on the key-board. The inspectors shall see that all the names of the nominees for the same office appear and remain on the same horizontal lines, and that the ballots upon constitutional amendments or other questions or propositions submitted, are arranged in pairs, successively captioned "for" and "against." The chairman shall then lock the bolt-rod behind the lock-button at the left side of the key-board. The inspectors shall then leave the voters' compartment through the entrance door, and the authorized watchers may then inspect the interior of the voters' compartment, likewise entering and departing through the entrance door, which shall thereupon be closed and locked by the chairman. The chairman shall then fully open the sliding doors of the counter compartment, in the presence of the inspectors and watchers, and, if not already so done, set each dial in every labeled counter at nine, and announce that every counter is so set. The chairman shall then direct the other inspectors

to enter the voters' compartment, push in the push-knob of the uppermost ballot in column number one, and read aloud said ballot, whereupon the chairman shall insert in the receptacle of the counter thus indicated its counter label, if not already inserted, and shall audibly repeat the name, and, in substance, say his counter is labeled and that all its dials are set at zero. They shall thus continue until all the push-knobs in column number one have been pushed in. One of the inspectors shall then go out through the exit door, thus releasing the push-knobs. The inspectors shall then re-enter the ballot machine, and they shall proceed with the remaining columns in all respects as with column number one. The inspectors shall then leave the voters' compartment, one going out through the exit door, the others through the entrance door. They shall all then see that the counter labels are in the same relative position opposite their respective ballots, and that all the dials stand at zero, and each of them shall announce that all dials stand at zero. The chairman shall then adjust the public counter at zero. The counter compartment shall then be locked.

§ 12. **Duties of inspectors.**— During the time that the polls are open the chairman, or one of the inspectors, shall be stationed at the entrance door of the ballot-machine to act as doorkeeper.

§ 13. **Voting.**— The polls being open, the voters shall pass through the opening in the outer guard-rail singly or in single file, and keeping in file, proceed to the inspectors' table. If the voter shall be found to be entitled to vote, the doorkeeper shall admit him to the ballot-machine through the entrance door, which shall be immediately closed and kept closed until said voter shall have come out through the exit door, and said exit door is entirely closed. The voter may be challenged at any time before he enters the ballot-machine.

§ 14. **Disabled voters.**— Any voter who shall be totally blind, without the use of either hand sufficient to push the knobs, or physically unable to enter or leave the ballot-machine without assistance, may choose from the inspectors or poll clerks, an assistant, who shall be admitted to the bal-

lot-machine with him. The person so selected shall not, in any manner, request or seek to persuade or induce such voter to vote any particular ballot or for any particular nominee, amendment, question or proposition, and shall not reveal how such disabled voter voted, or what occurred within the ballot-machine. After voting, one shall come from the ballot-machine through the entrance door first, the other through the exit door last. The name of the assistant shall be noted on the registers and poll-lists, opposite the name of the disabled voter and also the character of the disability. Intoxication, inability to read and write, and mental disability shall not be regarded as physical disability. Such physically disabled voter may be examined under oath administered by any inspector as to his disability, and if he knowingly testify falsely, he shall be guilty of perjury and punishable therefor.

§ 15. **Time of voting.**—No voter shall remain within the ballot-machine longer than one minute. If he does so, he shall be requested to leave the ballot-machine, and if he refuse, he shall be removed, and the inspectors may call for such aid as shall be needed so to do.

§ 16. **Instructing the voter within the ballot machine.**—In case any voter within the ballot machine shall ask the doorkeeper any question concerning the manner of voting, the doorkeeper shall summon another inspector of a party other than his own, and the question shall then be answered in the presence of both such inspectors; but under no circumstances shall advice be given as to how or for whom the voter shall vote.

§ 17. **Canvassing the vote.**—As soon as the polls are closed, the entrance door of the ballot machine shall be locked. The inspectors shall then, in the presence of the watchers, unlock and open the sliding doors of the counter compartment, only so far as to fully expose the full width of the wire-meshed guard door. The chairman shall read or announce, reading from left to right, the result in an audible voice to the others, as shown by the dials and they shall each and all observe and record the total number of votes registered for each respective candidate and upon each constitu-

tional amendment, question, or other proposition as registered and declared by such ballot machine register, and such ascertainment of the results shall be deemed to be the canvassing of the votes cast at such election. The wire-meshed guard door shall not be unlocked or opened at any time during the canvass. There shall be no change made in any part of the ballot machine. They shall then close and lock the counter compartment doors and shall observe and record the total number of voters who have voted in the ballot machine by transcribing the number shown by the dials of the public counter.

§ 18. **Certified statement.**— Upon the completion of the canvass, the inspectors shall make and sign a written statement thereof, showing the date of the election, number of the district, the town or ward and the county in which it was held, the whole number of votes cast for each office, the whole number of votes cast for each nominee for such office and the whole number cast, respectively, for and against each constitutional amendment, question or other proposition submitted. Copies shall be made and filed and proclamation of the result of the election made as now required by the election law.

§ 19. **Ballot clerk.**— No ballot clerks shall be elected or appointed in any town or city that shall have adopted the use of the ballot machine.

§ 20. **Election law.**— The provisions of the election law not inconsistent with this chapter, shall apply with full force to all towns and cities adopting the use of the ballot machine.

§ 21. **Additional ballot machines.**— Nothing herein contained shall prevent the use of more than one ballot machine in any polling place during an election.

§ 22. **Mistakes and omissions.**— A departure in matters of form or method from those prescribed herein not tending to prejudice the substantial rights of the voter shall be disregarded, and the provisions of this chapter shall be liberally construed to effect the objects of the law.

§ 23. The counties of New York and Kings are excepted from the provisions of this act.



**CHAP. 339.**

**AN ACT** to enable the towns and cities of this state to use the Davis automatic ballot machines at all elections therein.

**BECAME a law** April 21, 1896, with the approval of the Governor. Passed, a majority being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows :*

**SECTION 1.** The common council of any city, and the town board of any town within this state may adopt the Davis automatic ballot machine for use at all elections, and thereupon it shall be lawful to use such ballot machines for the purpose of voting for all public officers to be elected by the voters of such town or city, or any part thereof, and upon all constitutional amendments or propositions, or questions which may lawfully be submitted to such voters, and for registering and counting the ballots cast at such election.

§ 2. The common council of each city, and the town board of each town adopting said machine, shall provide for each polling place, at each election therein, the necessary ballot machines, in complete working order, with the dials of the counters set at 0, and shall care for the said ballot machines, as well as the furniture and equipment of the polling places when not in use at elections.

§ 3. The ballot machine and every part of the polling place shall be in plain view of the election officers, including the watchers. The ballot machines shall be placed at least three feet from the wall of the room and at least three feet from the outer guard-rail. The inspectors' table shall be at least four feet from the ballot machine. An inner guard-rail shall extend from the ballot machine and between the entrance and exit doors thereof to a point at or near the inspectors' table. The outer guard rail shall be so placed as to bar access to within three feet at least of the ballot machine, but with openings or gateways leading to and from the inspectors' table. Party nominations shall be arranged in columns, or else in horizontal rows, upon the said machines, and at the head of each of said columns, or else at the end of each of said rows, as the

case may be, ballot captions shall be placed of cardboard, or heavy paper, not less than four inches long nor less than three inches wide, which shall have printed thereon, in plain, clear type, as large as the space will reasonably permit, the party or other lawful designation of the nominee, amendments, or other questions or propositions submitted to vote. For each candidate lawfully nominated, and for each constitutional amendment or other proposition lawfully submitted to vote, a push key or lever shall be set as provided in section two of this act, and adjacent thereto shall be attached a printed ballot of cardboard, or heavy paper, not less than three inches long and not less than two inches wide, upon which shall be printed in plain, clear type, as large as the space will reasonably permit, the name of the office and the name of the candidate or nominee therefor; or a concise statement of the amendment, question or proposition submitted, under successive headings for and against. Should any party fail to make a nomination for any office, the ballot in that party's column or horizontal line upon the keyboard devoted to that office shall be left blank, and the push-knob or lever thereof shall be capped or otherwise arranged so as to be inoperative. Should two or more parties nominate the same person for the same office, or should the same person be nominated for the same office by any party and also by independent nomination, his name shall be printed upon the ballot of the party, or in the list of independent nominations, the certificate of which shall first be filed as required by law; provided, however, that such nominee may, within two days after his second nomination, by a written instrument, acknowledged as deeds are required to be acknowledged for record, and filed with the county clerk of the county, require his name to appear in the column or horizontal line of some other party so nominating him, and the county clerk shall prepare his ballot accordingly, and the ballots of the other party or parties which shall have nominated him shall be left blank for that office, and the corresponding push-knob or push-knobs or levers shall be capped or otherwise arranged so as to be inoperative. If two or more officers are to be elected to the same office for different terms, the term for which each is nominated shall be designated on the ballot.

The ballot captions and ballots of the several political parties or other nominating bodies, and those for and against constitutional amendments or other propositions or questions, shall be distinguished from each other by distinctive colors, and the ballot captions shall contain thereon the party emblems as provided by section fifty-six of chapter eight hundred and ten of the laws of eighteen hundred and ninety-five. In addition to the push-knob or lever and the ballot for each candidate, such ballot machines may also provide in each column or horizontal line of the party nominations a separate push-knob or lever to vote a ballot printed in plain, large type "straight ticket." In presidential elections such ballot machines may provide in each column or horizontal line of party nominations a separate push-knob or lever to vote a ballot for all the presidential electors nominated by such party.

§ 4. The county clerk of the county shall provide at the expense of the county, the requisite number of ballots, ballot captions, counter labels and instruction cards for each polling place in such town and city for each election to be held thereat, except for town meetings, village elections, and the elections of school officers not held at the same time as the general election, in which latter case the clerk of such village, town or school district shall provide at the expense of said village, town or school district the requisite number of ballots, ballot captions, counter labels and instruction cards for each polling place. The ballots, ballot captions, counter labels and instruction cards shall be printed and in possession of the clerk charged with the duty of providing them and open to the public inspection four days before every election, except in case of a town meeting, village election, or election of school officers not held at the same time as the general election, in which case they shall be so printed and open to public inspection two days before such election.

§ 5. Four sample ballots of each kind shall be provided for each polling place, and four instruction cards printed in such other language or languages as the common council or the town board may prescribe, shall be provided for each polling place, together with four complete sets of ballot captions. The ballot captions and ballots shall be duplicates of those

used upon the machine, and the instruction cards shall be printed in clear type so as to be easily read. The instruction cards shall state the prescribed colors and emblems of the party ballots, and of the ballots of independent nominees, and shall give a summary of the laws punishing violations of the election law and full instructions for the use of said ballot machines.

§ 6. The county clerk or other officer having charge of the printing of the ballots, ballot captions and instruction cards, shall on his own motion, correct any error therein upon discovery thereof, which can be corrected without interfering with their distribution and use at the election.

§ 7. Counter labels shall be of card board or heavy paper of the same length, width and color as the ballots, and shall be so placed on the machine as that the registering counter for each push knob or lever shall show, adjacent to the label or ballot, the number of ballots cast for the candidate whose name is printed upon said counter label.

§ 8. The clerk charged with the duty of providing ballots, ballot captions, counter labels and instruction cards shall, on Saturday before the election at which they are to be used, deliver to the clerk of each town and city in the county, the ballots, ballot captions, counter labels and instruction cards required for each polling place in such town or city.

§ 9. The inspectors of election and poll clerks shall meet at their respective polling places in each election district, thirty minutes before the time of opening of the polls therein. After the election of one of their number as chairman, they shall post the instruction cards and sample ballot captions, and shall, if the same has not already been done, adjust and secure within the frames upon the key board, the ballot captions and ballots in the presence of the official watchers. The inspectors shall then fully open the doors of the counter compartment in the presence of the inspectors and watchers, and shall thereupon push the push knobs or levers on the balloting side of the machine until all the counter dials register at zero. The counting apparatus shall then be locked.

§ 10. After the polls shall have been opened, the voters shall pass through the opening in the outer guard rail singly

or in single file to the inspectors' table. If the voter shall be found entitled to vote, one of the inspectors shall admit him to the ballot machine through the entrance.

§ 11. Any voter who shall be totally blind or without the use of either hand sufficient to push the knobs or levers, or who shall be physically unable to enter or leave the ballot machine without assistance, may chose from the inspectors or poll clerks an assistant who shall be admitted to the ballot machine with him, provided he shall have been duly registered as a disabled voter pursuant to section one hundred and five of chapter eight hundred and ten of the laws of eighteen hundred and ninety-five; but intoxication or illiteracy shall not be regarded as a physical disability. The inspector or poll clerk selected by the voter shall not in any manner request nor seek to persuade or induce such voter to vote any particular ballot, or for any particular nominee, amendment, question or proposition, and shall not reveal for whom such disabled voter voted.

§ 12. In case any voter after entering the ballot machine shall ask for further instructions concerning the manner of voting, two inspectors of opposite political parties shall stand outside the machine and give such directions to the voter as they two may agree upon, except that under no circumstances shall either of them give advice as to voting for any particular nominee, amendment, question or proposition.

§ 13. No voter shall remain within the ballot machine longer than one minute, and if he shall refuse to leave the said machine after the lapse of one minute, he shall be removed by the inspectors.

§ 14. As soon as the polls are closed the ballot machine shall be locked against voting, and the counting compartment opened in the presence of the watchers and all other persons who may be lawfully within the room, or voting place, giving full view to the dial numbers announcing the votes cast for each candidate, and for or against the various constitutional amendments, questions or other propositions.

§ 15. The inspectors shall then add together the votes cast for each candidate upon the straight tickets, if any, and the

votes cast for such candidates by reason of the push knob or lever bearing the name of that candidate, and officially and publicly announce the total vote for each candidate thus ascertained. Before leaving the room or voting place, and before closing and locking the counting compartment, the inspectors shall make and sign written statements of election required by section one hundred and fifteen of chapter eight hundred and ten of the laws of eighteen hundred and ninety-five, except that such statements of the canvass need not contain any ballots, official or defective. The written statements so made, after having been signed by the inspectors, shall be read in the hearing of all persons present and ample opportunity given to compare the results so certified, with the counter dials so exposed to public view. After such comparison and correction, if any, are made, the inspector shall then close the counting compartment.

§ 16. No ballot clerks shall be elected or appointed in any town or city that shall have adopted the use of the ballot machine.

§ 17. All provisions of the election law, not inconsistent with this chapter, shall apply with full force to all towns and cities adopting the use of ballot machines.

§ 18. This act shall take effect immediately.

## -Automatic Ballot-Cabinets.

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### CHAP. 765.

AN ACT to secure independence of voters at town meetings, secrecy of the ballot, and providing for the use of automatic ballot-cabinets.

BECAME a law May 24, 1894, with the approval of the Governor. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows :*

**SECTION 1. Purchase and use of automatic ballot cabinets for towns and villages.**— Hereafter within this state any town or incorporated village may, by a majority vote of the town board, or board of trustees of such village, at a meeting thereof, held not less than ten days before the time of the annual town meeting or village election thereof is to be held, determine upon, purchase and order the use of one or more automatic ballot cabinets at elections of town or village officers; and thereafter at all elections of town officers in said town, or officers of such village, until otherwise determined by said town board or board of trustees of such village said automatic ballot cabinets shall be used for the purpose of voting for the officers to be elected at such elections and for registering and counting the ballots cast thereat.

§ 2. **Form of ballots and canvass of votes.**— The ballot by which the elector chooses or votes in said automatic ballot-cabinets shall be in secret, and shall be a cardboard or paper ticket, or emblem, which shall contain written or printed, or partly written or partly printed, the names of the persons for whom the elector intends to vote, and shall designate the office to which each person so named is intended by him to be chosen, and shall not contain any other printed or written device or distinguishing mark, excepting a heading or caption of its political or party designation, of not exceeding five words, and may be of different colors, and if there shall be

found in the ballot-boxes more ballots of the respective political parties than were indicated by the automatic registers, such excess of ballots of the respective parties shall be rejected; and the canvassers shall also make a true canvass of all split tickets, and make an accurate return of the votes cast for the respective candidates. The town board or board of trustees of such village may make regulations for the use of such ballot cabinets, but such regulations shall require all actions and proceedings of the election officers to be in public in the presence of watchers who may be appointed by the different political parties or candidates thereof, and shall not be inconsistent with law further than may be necessary by reason of the use of such ballot cabinets for the purpose of holding elections, counting and canvassing the ballots thereof.

In any town or incorporated village wherein any such automatic cabinet has been or may hereafter be adopted, the town board or trustees of such village, may provide in such regulations that the voting precincts or districts therein may be arranged so as to contain not more than eight hundred voters, and all officers of law charged with the duty of arranging for election precincts or districts shall be governed according to such regulations. (*Thus amended by chap. 158, Laws 1895.*)

**§ 3. Duty of election officers.**—All election officers are hereby charged with the proper carrying out of necessary regulations for the use of any automatic voting machine provided in their respective towns or villages.

**§ 4. Violations of provisions.**—Any violation of the provisions of this act or any willful attempt to injure or render ineffectual any such automatic voting machine provided in accordance with the provisions of this act shall be deemed a misdemeanor.



## Provisions Relating to State and County Elective Officers.

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**Qualifications for holding office.**—“No person shall be capable of holding a civil office who shall not, at the time he shall be chosen thereto, be of full age, a citizen of the United States, a resident of the state, and if it be a local office, a resident of the political subdivision or municipal corporation of the state for which he shall be chosen, or within which the electors electing him reside, or within which his official functions are required to be exercised.” (§ 3, *Public Officers Law*, chap. 681, *Laws* 1892.)

**Governor and lieutenant-governor, who eligible as.**—“No person shall be eligible to the office of governor or lieutenant-governor, except a citizen of the United States, of the age of not less than thirty years, and who shall have been five years next preceding his election a resident of this state.” (§ 2, art. 4, *State Constitution*, as amended in 1874.)

**Judges not to hold other offices.**—“The judges of the court of appeals and justices of the supreme court shall not hold any other office or public trust. All votes for any of them for any other than a judicial office, given by the legislature or the people, shall be void.” (§ 10, art. 6, *State Constitution*.)

**Members of legislature, who eligible.**—“No person shall be eligible to the legislature who, at the time of his election, is, or within one hundred days previous thereto has been, a member of congress, a civil or military officer under the United States, or an officer under any city government; and if any person shall, after his election as a member of the legislature, be elected to congress, or appointed to any office, civil or military, under the government of the United States, or under any city government, his acceptance thereof shall vacate his seat.” (§ 8, art. 3, *State Constitution*, as amended in 1874.)

**Members of legislature, not to receive civil appointments.**—“No member of the legislature shall receive any civil appointment within this state, or the senate of the United

States, from the governor, the governor and senate, or from the legislature, or from any city government, during the time for which he shall have been elected; and all such appointments and all votes given for any such member for any such office or appointment shall be void." (§ 7, art. 3, *State Constitution*.)

**Representatives in congress, qualifications of.**— "No person shall be a representative who shall not have attained to the age of twenty-five years and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen." (§ 2, art. 1, *U. S. Constitution*.)

"No person shall be a senator or representative in congress, or elector of president and vice-president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each house, remove such disability." (§ 3, art. 14, *U. S. Constitution*.)

**Governor and lieutenant-governor, election of.**— "The governor and lieutenant-governor shall be elected at the times and places of choosing members of assembly. The persons respectively having the highest number of votes for governor and lieutenant-governor shall be elected; but in case two or more shall have an equal and the highest number of votes for governor, or for lieutenant-governor, the two houses of the legislature, at its next annual session, shall, forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for governor or lieutenant-governor." (§ 3, art. 4, *State Constitution*.)

**Terms of governor and lieutenant-governor.**— "The executive power shall be vested in a governor, who shall hold his office for two years; a lieutenant-governor shall be chosen at the same time, and for the same term. The governor and lieutenant-governor elected next preceding the time when

this section shall take effect, shall hold office until and including the thirty-first day of December, one thousand eight hundred and ninety-six, and their successors shall be chosen at the general election in that year." (§ 1, *art. 4, State Constitution.*)

**Secretary of state, comptroller, treasurer, attorney-general and state engineer and surveyor, election of.—**

"The secretary of state, comptroller, treasurer, attorney-general and state engineer and surveyor shall be chosen at a general election, at the times and places of electing the governor and lieutenant-governor, and shall hold their offices for two years, except as provided in section two of this article. Each of the officers in this article named, excepting the speaker of the assembly, shall at stated times during his continuance in office, receive for his services a compensation which shall not be increased or diminished during the term for which he shall have been elected; nor shall he receive to his use any fees or perquisites of office or other compensation. No person shall be elected to the office of state engineer and surveyor who is not a practical civil engineer." (§ 1, *art. 5, State Constitution.*)

**First election and terms of state officers.—**"The first election of the secretary of state, comptroller, treasurer, attorney-general and state engineer and surveyor, pursuant to this article shall be held in the year one thousand eight hundred and ninety-five, and their terms of office shall begin on the first day of January following, and shall be for three years. At the general election in the year one thousand eight hundred and ninety-eight, and every two years thereafter, their successors shall be chosen for the term of two years." (§ 2, *art. 5, State Constitution.*)

**Judges of court of appeals, election and term of office of.—**"The court of appeals is continued. It shall consist of the chief judge and associate judges now in office, who shall hold their offices until the expiration of their respective terms, and their successors, who shall be chosen by the electors of the state. The official terms of the chief judge and associate judges shall be fourteen years from and including the first day of January next after their election. Five members of the

court shall form a quorum, and the concurrence of four shall be necessary to a decision. The court shall have power to appoint and to remove its reporter, clerk and attendants." (§ 7, *art. 6, State Constitution.*)

**Justices of supreme court, election and term of office of.**—"The supreme court shall consist of the justices now in office, and of the judges transferred thereto by the fifth section of this article, all of whom shall continue to be justices of the supreme court during their respective terms, and of twelve additional justices who shall reside in and be chosen by the electors of, the several existing judicial districts, three in the first district, three in the second, and one in each of the other districts; and of their successors. The successors of said justices shall be chosen by the electors of their respective judicial districts. The legislature may alter the judicial districts once after every enumeration under the constitution, of the inhabitants of the state, and thereupon reapportion the justices to be thereafter elected in the districts so altered." (*Part of § 1, art. 6, State Constitution.*)

**Official terms of justices; vacancies in office.**—"The official terms of the justices of the supreme court shall be fourteen years from and including the first day of January next after their election. When a vacancy shall occur otherwise than by expiration of term in the office of justice of the supreme court the same shall be filled for a full term, at the next general election, happening not less than three months after such vacancy occurs; and, until the vacancy shall be so filled, the governor by and with the advice and consent of the senate, if the senate shall be in session, or if not in session the governor, may fill such vacancy by appointment, which shall continue until and including the last day of December next after the election at which the vacancy shall be filled." (§ 4, *art. 6, State Constitution.*)

**Judges to make and file certificate of age, and when their term of office expires.**—"A judge of a court of record must, within ten days after he enters on the duties of his office, make and sign a certificate, stating his age, and the time when his official term will expire, either by completion of a full term or by reason of the disability of age, prescribed in

the constitution. The certificate must be filed in the office of the secretary of state, who must keep a record of the time of the commencement and termination of the official term of each judge of a court of record." (§ 54, *Code of Civil Procedure*.)

**Members of legislature, time of electing.**— "The elections of senators and members of assembly, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of November unless otherwise directed by the legislature." (§ 9, *art. 3, State Constitution*.)

**Senate.**— "The senate shall consist of fifty members, except as hereinafter provided. The senators elected in the year one thousand eight hundred and ninety-five shall hold their offices for three years, and their successors shall be chosen for two years." (*Part of § 2, art. 3, of the Revised Constitution*.)

**Assembly, how composed.**— "The assembly shall consist of one hundred and fifty members who shall be chosen for one year." (*Part of § 2, art. 3, of Revised Constitution*.)

**Representatives in congress, how to be elected; vacancies.**— "The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature." (*Subd. 1, § 2, art. 1, U. S. Constitution*.) "When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies." (*Subd. 4, § 2, same art.*)

**Representatives in congress, when and how chosen.**— "Representatives in the house of representatives of the congress of the United States shall be chosen in the several congressional districts at the general election held therein in the year 1892 and every second year thereafter. If any such representative shall resign he shall forthwith transmit a notice of his resignation to the secretary of state, and if a vacancy shall occur in any such office the clerk of the county in which such representative shall have resided at the time of his election shall, without delay, transmit a notice thereof to the secretary of state." (§ 160, *Election Law, 1892*.)

**Election, appointment and term of office of county judge, surrogate, special county judge and special surrogate, and designation of justices of sessions.**—"There shall continue to be elected in each of the counties now having such officers:

1. A county judge\* and a surrogate,† who shall severally hold the office for six years from and including the first day of January succeeding his election.

"2. A special county judge and a special surrogate, pursuant to the several acts of the legislature creating and respectively defining the terms and duties thereof.

"3. There shall continue to be appointed by the governor, by and with the consent of the senate, if in session, a county judge, surrogate, special county judge or special surrogate, when a vacancy shall occur in either of such offices, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election thereafter at which such vacancy can be lawfully filled.

"4. There shall continue to be designated two justices of the peace of the county, having at least one year to serve from the first day of January succeeding their designation, to be justices of sessions for the county during the calendar year commencing on the first day of January succeeding their designation. Each elector may place upon his ballot at each general election under the words 'for sessions,' the name of one such justice of the peace and the two justices of the peace representing the two principal political parties into which the electors of the county are divided receiving the greatest number of votes shall be designated as such justices of the sessions for such term." (§ 220, *County Law, chap. 686, Laws 1892.*)

**Election, appointment and term of office of sheriffs and coroners, and the undertakings of sheriffs.**—"There shall continue,

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\*In the county of Kings there shall be two county judges. See § 14, art. 6, Revised State Constitution.

†In the county of New York the term of surrogate is fourteen years. See § 15, art. 6, Revised State Constitution.

‡Office of justices of sessions abolished after Jan. 1, 1896. See § 14, art. 6, Revised State Constitution.

" 1. To be elected in each of the counties a sheriff \* and four coroners, who shall,† respectively, hold their office for three years, from and including the first day of January succeeding their election ;

" 2. To be appointed by the governor, a sheriff, or a coroner, when a vacancy shall occur in either of such offices, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election thereafter, at which such vacancy can be lawfully filled.

" Every person elected or appointed to the office of sheriff shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver to the county clerk of his county, a joint and several undertaking to the county, approved by such clerk, to the effect that such sheriff will, in all things, perform and execute the office of sheriff of his county during his continuance therein, without fraud or deceit. Such undertaking shall be filed in the office of the county clerk; and the clerk shall, at the time of his approval thereof, examine each surety thereto under oath; and he shall not approve of such undertaking, unless it shall appear on such examination that such sureties are jointly worth at least fifteen thousand dollars over and above all debts whatever; which examination, subscribed by the sureties, shall be indorsed on or attached to the undertaking; but the clerk shall determine the sufficiency of each surety. In the same manner the security shall be renewed within the twenty days after the first Monday of January in each year subsequent to that in which he shall have entered upon the duties of his office." (§ 180, *County Law, chap. 686, Laws 1892.*)

**Election, appointment, term of office and undertaking of county clerk.**— " There shall continue,

" 1. To be elected in each of the counties a county clerk, who shall hold his office for three years from and including the first day of January succeeding his election :

" 2. To be appointed by the governor, a county clerk, when

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\* Sheriff to hold no other office and ineligible for next term. See § 1, art. 10, State Constitution.

† Office of coroner not a constitutional office.

a vacancy shall occur in such office, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election after the happening of the vacancy.

“ Every person elected or appointed to the office of county clerk, shall, before he enters on the duties of his office, and if appointed, within fifteen days after notice thereof, execute an undertaking to the county, with at least two sureties, with the approval of the board of supervisors, if in session, indorsed thereon by the clerk of the board, otherwise with the approval of the county judge, or a justice of the supreme court residing in the county, to the effect that he will faithfully execute and discharge the duties of county clerk, and account for all moneys deposited with him pursuant to law, or the order of any court, or by his predecessor in office, and pay them over as required by law, or directed by such order.” (§ 160, *County Law, chap. 686, Laws 1893.*)

**Election, appointment, term of office, and undertaking of county treasurer.**— “ There shall continue,

“ 1. To be elected in each of the counties, a county treasurer, who shall hold his office for three years from and including, in the county of Kings, the first Tuesday of August, in the county of Monroe, the first Tuesday of October, and in the other counties the first day of January, succeeding his election, and until his successor is duly elected and qualified ;

“ 2. To be appointed by the board of supervisors, if in session, otherwise by the county judge, a county treasurer, when a vacancy shall occur in such office, and the person so appointed shall hold the office until and including, in the county of Kings, the first Monday of August, in the county of Monroe, the first Monday of October, and in the other counties the last day of December, succeeding his appointment, and until his successor shall be elected and qualified.

“ Every person elected or appointed to the office of county treasurer shall, before he enters upon the duties of his office, and if appointed within fifteen days after notice thereof, give an undertaking to the county with three or more sufficient sureties, with the approval of the board of supervisors, if in session, indorsed thereon by the clerk, other-



wise with the approval of the county judge and county clerk, and in such sum as such board or judge and clerk approving the same shall direct, to the effect that such person shall faithfully execute the duties of his office, and shall pay over according to law, and account for all moneys, property and securities, which shall come to his hands as treasurer and render a just and true account thereof to the board of supervisors, when required; and obey all orders and directions with a competent court relating thereto. When, in the opinion of the board of supervisors, the moneys intrusted to such person as treasurer shall be unsafe, or the surety insufficient, such board may require from such treasurer a new or further undertaking, to the same effect as at first, and with like sureties; and if such county treasurer shall fail to renew such undertaking as required within twenty days after he shall be notified by such board of such request, such omission shall work a forfeiture of his office, and the same shall become vacant. Such undertaking, with the approval indorsed thereon shall be filed in the office of the county clerk. The sureties, and county therein named, shall be liable to the state for the payment to the state treasurer, according to law, of all moneys belonging to the state, which shall come into his hands as county treasurer; and for the rendering of a just and true account thereof to the state comptroller." (§ 140, *County Law*, chap. 686, *Laws* 1892.)

**Election, appointment, term of office and undertaking of district attorney.**— "There shall continue,

"1. To be elected in each of the counties a district attorney, who shall hold his office for three years from and including the first day of January succeeding his election;

"2. To be appointed by the governor, a district attorney, when a vacancy shall occur in such office, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election thereafter at which such vacancy can be lawfully filled.

"3. Except in the county of Kings, every person elected or appointed to the office of district attorney, shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver, to the

county clerk of his county, a joint and several undertaking to the county, approved by the county judge, with two or more sufficient sureties, being resident freeholders, to the effect, that he will faithfully account for and pay over according to law, or as the court may direct, all moneys that may come into his hands as such district attorney." (§ 200, *County Law*, chap. 686, *Laws* 1892.)

**Election, appointment and term of office of superintendents of the poor.**— "There shall continue to be elected or appointed in each of the counties one or more superintendents of the poor as heretofore; but no supervisor of a town, or county treasurer, shall be elected or appointed to such office. The board of supervisors of any county having, or entitled to have three or more superintendents of the poor, may, at an annual meeting thereof determine by resolution that thereafter only one county superintendent of the poor shall be elected; but no superintendent of the poor shall be elected or appointed in such county until the general election next preceding the expiration of the terms of the superintendents in office, or the office shall be vacant. The term of any superintendent in office, or of any person duly elected thereto on the passage of such resolution, shall not be affected thereby. Such board may also, in counties having and entitled to have but one superintendent of the poor, in like manner determine that thereafter three superintendents of the poor be elected for such county. After the passage of a resolution, as herein provided, the powers herein conferred shall not be again exercised within a period of five years. Such resolution shall not take effect until the next calendar year succeeding its adoption.

"There shall continue,

"1. To be elected annually in each of the counties so having and being entitled to three county superintendents, one county superintendent of the poor, who shall hold his office for three years from and including the first day of January succeeding his election, and until his successor is duly elected and qualifies;

"2. To be appointed by the board of supervisors, if in session, otherwise by the county judge, a county superintendent of the poor, when a vacancy shall occur in such office, and the person so appointed shall hold the office

until and including the last day of December succeeding his appointment, and until his successor shall be elected and qualifies;

“3. To be elected a county superintendent of the poor in a county when a vacancy shall occur in such office, and the term of which shall not expire on the last day of the next succeeding December, and the person so elected shall hold the office for such unexpired term, which shall be designated upon the ballots of the electors, or until his successor shall be elected and qualifies;

“4. To be elected in each of the counties so having, and entitled to have but one superintendent, a superintendent of the poor, who shall hold his office for three years from and including the first day of January succeeding his election, and until his successor is duly elected and qualifies;

“5. To be appointed by the board of supervisors, if in session, otherwise by the county judge, a superintendent of the poor, in a county having and being entitled to but one superintendent, when a vacancy shall occur in such office; and the person so appointed shall hold the office until and including the last day of December succeeding his appointment, and until his successor shall be elected and qualifies

“6. To be elected in the succeeding year after the board of supervisors of a county having but one superintendent of the poor shall have adopted a resolution to have three superintendents, if the term of the superintendent in office expires with such year, three superintendents of the poor for such county, for the terms of one, two and three years respectively, which terms shall be respectively designated upon the ballots of the electors voting for such officers. If the term of the superintendent in office will not expire with such succeeding year, there shall be elected two superintendents of the poor for such county, for such terms, to be so designated upon the ballots of the electors voting for such officers, as will make the terms of one of the three superintendents expire with each succeeding year, and one superintendent of the poor shall hereafter be annually elected. Such persons so elected shall hold the office from and including the first day of January succeeding his election,

and until and including the last day of December of the year in which his term shall so expire, and until his successor is duly elected and qualifies. When ballots are voted without designating the term, the first name on the ballot shall be deemed as intended for the full or longer term of the officer voted for; the second name for the next longer term, and the third name for the shorter term." (§ 210, *County Law, chap. 686, Laws 1892.*)

**Undertaking.**— "Every person elected or appointed to the office of superintendent of the poor shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver to the clerk of the county, to be filed in his office, his undertaking to the county, with two or more sufficient sureties, with the approval of the board of supervisors, if in session, indorsed thereon by the clerk; otherwise by the county judge of his county, or a justice of the supreme court of his judicial district, to the effect that he will faithfully discharge the duties of his office as such superintendent of the poor, and pay according to law all moneys that shall come into his hands as such superintendent, and render a just and true account thereof to the board of supervisors of his county." (§ 211, *County Law, chap. 686, Laws 1892.*)

**Election, term of office, etc., of school commissioners.**— "A school commissioner for each school commissioner district shall be elected by the electors thereof, at the general election in the year eighteen hundred and ninety-six, and tri-ennially thereafter. Any person of full age, a citizen of the United States, a resident of the state, and of the county in which a school commissioner district is situated, shall be eligible to the office of school commissioner. No person shall be deemed ineligible to such office by reason of sex who has the other qualifications as herein provided. It shall be the duty of county clerks, and they are hereby required, as soon as they shall have official notice of the election or appointment of a school commissioner, for any district in their county, to forward to the superintendent of public instruction a duplicate certificate of such election or appointment, attested by their

signature and the seal of the county." (§ 3, *School Law, chap. 556, Laws 1894.*)

"The term of office of such commissioner shall commence on the first day of January next after his election, and shall be for three years and until his or her successor qualifies. Every person elected to the office, or appointed to fill a vacancy, must take the oath of office prescribed by the constitution, before the county clerk or before any officer authorized to take, within this state, the acknowledgment of the execution of a deed of real property, and file it with the county clerk; and if he or she omit so to do, the office shall be deemed vacant." (§ 4, *School Law, chap. 556, Laws 1894.*)

**Commencement of term of office.**—"The term of office of an elective officer, unless elected to fill a vacancy then existing, shall commence on the first day of January next after his election, if the commencement thereof be not otherwise fixed by law." (§ 4, *Public Officers' Law, chap. 681, Laws 1892.*)

**Holding over after expiration of term.**—"Every officer except a judicial officer, a notary public, a commissioner of deeds and an officer whose term is fixed by the constitution, having duly entered on the duties of his office, shall unless the office shall terminate or be abolished, hold over and continue to discharge the duties of his office, after the expiration of the term for which he shall have been chosen, until his successor shall be chosen and qualified; but after the expiration of such term, the office shall be deemed vacant for the purpose of choosing his successor. An officer so holding over for one or more entire terms, shall, for the purpose of choosing his successor, be regarded as having been newly chosen for such terms. An appointment for a term shortened by reason of a predecessor holding over, shall be for the residue of the term only." (§ 5, *Public Officers' Law, chap. 681, Laws 1892.*)

**Terms of officers chosen to fill vacancies.**—"If an appointment of a person to fill a vacancy in an appointive office be made by the officer, or by the officers, body or board of officers, authorized to make appointment to the office for the full term, the person so appointed to such vacancy shall hold office for the balance of the unexpired term. The term of

office of an officer appointed to fill a vacancy in an elective office, shall be until the commencement of the political year next succeeding the first annual election after the happening of the vacancy, if the office be made elective by the constitution, or at which the vacancy can be filled by election, if the office be otherwise made elective." (§ 27, *Pub. Officers' Law*, chap. 681, *Laws* 1892.)

**Official oath.**—"Every officer shall take and file the oath of office required by law before he shall be entitled to enter upon the discharge of any of his official duties. An oath of office may be administered by any officer authorized to take, within the state, the acknowledgment of the execution of a deed of real property, or by an officer in whose office the oath is required to be filed, or may be administered to any member of a body of officers, by a presiding officer or clerk thereof, who shall have taken an oath of office. The oath of office of a notary public or commissioner of deeds shall be filed in the office of the clerk of the county in which he shall reside. The oath of office of every state officer shall be filed in the office of the secretary of state; of every officer of a municipal corporation, with the clerk thereof; and of every other officer, in the office of the clerk of the county in which he shall reside, if no place be otherwise provided by law for the filing thereof." (§ 10, *Pub. Officers' Law*, chap. 681 of 1892, as amended by chap. 318 of 1893.)

**Form of official oaths.**—"Members of the legislature, and all officers, executive and judicial, except such inferior officers as shall be by law exempted shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: 'I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the state of New York, and that I will faithfully discharge the duties of the office of \_\_\_\_\_, according to the best of my ability;' and all such officers who shall have been chosen at any election shall, before they enter on the duties of their respective offices, take and subscribe the oath or affirmation above prescribed, together with the following addition thereto, as part thereof:

" 'And I do further solemnly swear (or affirm) that I have

not directly or indirectly paid, offered or promised to pay, contribute, or offered or promised to contribute any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote,' and no other oath, declaration or test shall be required as a qualification for any office of public trust." (§ 1, *art. 13, State Constitution.*)

**Official undertakings.**— "Every official undertaking, when required by or in pursuance of law to be hereafter executed or filed by any officer, shall be to the effect that he will faithfully discharge the duties of his office and promptly account for and pay over all moneys or property received by him as such officer, in accordance with law, or in default thereof, that the parties executing such undertaking will pay all damages, costs and expenses resulting from such default, not exceeding a sum, if any, specified in such undertaking. The undertaking of a state officer shall be approved by the comptroller both as to its form and as to the sufficiency of the sureties, and be filed in the comptroller's office. The undertaking of a municipal officer shall, if not otherwise provided by law, be approved as to its form and the sufficiency of the sureties by the chief executive officer or by the governing body of the municipality and be filed with the clerk thereof. The approval by such governing body may be by resolution, a certified copy of which shall be attached to the undertaking. The sum specified in an official undertaking shall be the sum for which such undertaking shall be required by or in pursuance of law to be given. If no sum, or a different sum from that required by or in pursuance of law, be specified in the undertaking, it shall be deemed to be an undertaking for the amount so required. If no sum be required by or in pursuance of law to be so specified, and a sum be specified in the undertaking, the sum so specified shall not limit the liabilities of the sureties therein. Every official undertaking shall be executed and duly acknowledged by at least two sureties, each of whom shall add thereto his affidavit that he is a freeholder or householder within the state, stating his occupation and residence and the street number of his residence and place

of business if in a city, and a sum which he is worth over and above his just debts and liabilities and property exempt from execution. The aggregate of the sums so stated in such affidavits must be at least double the amount specified in the undertaking. The failure to execute and\* official undertaking in the form or by the number of sureties required by or in pursuance of law, or of a surety thereto to make an affidavit required by or in pursuance of law, or in the form so required, or the omission from such an undertaking of the approval required by or in pursuance of law, shall not affect the liability of the sureties therein." (§ 11, *Pub. Officers' Law*, chap. 681, *Laws* 1892.)

**Force and effect of official undertaking.**—"An officer of whom an official undertaking is required, shall not receive any money or property as such officer, or do any act affecting the disposition of any money or property which such officer is entitled to receive or have the custody of, before he shall have filed such undertaking; and any person having the custody or control of any such money or property shall not deliver the same to any officer of whom an undertaking is required until such undertaking shall have been given. If a public officer required to give an official undertaking, enters upon the discharge of any of his official duties before giving such undertaking, the sureties upon his undertaking subsequently given for or during his official term shall be liable for all his acts or defaults done or suffered and for all moneys and property received during such term prior to the execution of such undertaking, or if a new undertaking is given, from the time notice to give such new undertaking is served upon him. Every official undertaking shall be obligatory and in force so long as the officer shall continue to act as such and until his successor shall be appointed and duly qualified, and until the conditions of the undertaking shall have been fully performed. When an official undertaking is renewed pursuant to law, the sureties upon the former undertaking shall not be liable for any official act done or moneys received after the due execution, approval and filing of the new undertaking." (§ 12, *Pub. Officers' Law*, chap. 681, *Laws* 1892.)

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\* So in the original.



**Notice of neglect to file oath or undertaking.**—“The officer or body making the appointment or certificate of election of a public officer shall, if the officer be required to give an official undertaking to be filed in an office other than that in which the written appointment or certificate of election is to be filed, forthwith give written notice of such appointment or election to the officer in whose office the undertaking is to be filed. If any officer shall neglect, within the time required by law, to take and file an official oath, or execute and file an official undertaking, the officer, with whom, or in whose office such oath or undertaking is required to be filed, shall forthwith give notice of such neglect, if of an appointive officer, to the authority appointing such officer; if of an elective officer, to the officer, board or body authorized to fill a vacancy in such office, if any, or if none and a vacancy in the office may be filled by a special election, to the officer, board or body authorized to call or give notice of a special election to fill such vacancy; except that the notice of failure of a justice of the peace to file his official oath, shall be given to the town clerk of the town for which the justice was elected.” (§ 13, *Pub. Officers' Law, chap. 681, Laws 1892.*)

**Resignation of officers.**—“Public officers may resign their offices as follows:

“1. The governor, lieutenant-governor, secretary of state, comptroller, attorney general, state engineer and surveyor, to the legislature;

“2. All officers appointed by the governor alone, or by him with the consent of the senate, to the governor;

“3. Senators and members of assembly, to the presiding officers of their respective houses;

“4. Sheriffs, coroners, county clerks, district attorneys and registers of counties, to the governor;

“5. Every other county officer, to the county clerk;

“6. Every town officer, to the town clerk;

“7. The officer of any other municipal corporation, to the clerk of the corporation;

“8. Every other appointive officer, where not otherwise provided by law, to the body, board or officer that appointed him, and every other elective officer, where not otherwise provided by law, to the secretary of state.

"Every resignation shall be in writing addressed to the officer or body to whom it is made. If addressed to an officer, it shall take effect upon delivery to him at his place of business, or when it shall be filed in his office.

"If addressed to the legislature or to the presiding officer of either house thereof, it shall be delivered to and filed with the secretary of state, and shall take effect when so delivered, and he shall forthwith communicate the fact of such resignation to the legislature or to such house, if in session, or if not, at its first meeting thereafter.

"If addressed to any other body it shall be delivered to the presiding officer or clerk of such body, if there be one, and if not, to any member thereof, and shall take effect upon such delivery, and shall be filed with the clerk, or if there be no clerk, with the other records of such body. A delivery at the office or place of residence or business of the person to whom any such resignation may be delivered shall be a sufficient delivery thereof." (§ 21, *Pub. Officers' Law, chap. 681, Laws 1892.*)

**Removal of judicial officers.**—"Judges of the court of appeals and justices of the supreme court, may be removed by concurrent resolution of both houses of the legislature, if two-thirds of all the members elected to each house concur therein. All other judicial officers, except justices of the peace and judges or justices of inferior courts not of record, may be removed by the senate, on the recommendation of the governor, if two-thirds of all the members elected to the senate concur therein. But no officer shall be removed by virtue of this section except for cause, which shall be entered on the journals, nor unless he shall have been served with a statement of the cause alleged, and shall have had an opportunity to be heard. On the question of removal, the yeas and nays shall be entered on the journal." (§ 11, *art. 6, Revised State Constitution.*)

**Removal of officers by senate.**—"The governor before making a recommendation to the senate for the removal of any officer may, in his discretion, take proofs for the purpose of determining whether such recommendation shall be made.

"The secretary of state, comptroller, treasurer, attorney-general, or the state engineer and surveyor, may be removed by the senate, on the recommendation of the governor, for misconduct or malversation in office, if two-thirds of all the members elected to the senate shall concur therein. No such removal shall be made unless the person who is sought to be removed, shall have been served with a copy of the charges against him and have an opportunity of being heard. On the question of removal, the yeas and nays shall be entered on the journal. The governor may convene the senate in extra session for the investigation of such charges. The senate shall have power to make such rules as it may see fit for the practice before it. At the time appointed for the investigation, the senate shall proceed to hear and try the charges against such officer, and may take proofs in relation thereto.

"The governor may direct the attorney-general or may appoint any suitable person to conduct the trial of such charges before the senate.

"An officer appointed by the governor by and with the advice and consent of the senate, may be removed by the senate upon the recommendation of the governor.

"If the senate shall reject a recommendation of removal the clerk of the senate shall, by a writing signed by him and by the president and clerk of the senate, communicate the fact of such rejection to the governor. If the senate shall concur in such a recommendation the removal shall take effect upon the passage of the resolution of concurrence, and duplicate copies of such resolution, certified by the clerk and president of the senate, shall be executed and delivered by the clerk to the secretary of state." (§ 22, *Pub. Officers' Law, chap. 681, Laws 1892.*)

**Removals by governor.\***—"An officer appointed by the governor for a full term or to fill a vacancy, any county superintendent of the poor, any register of a county, or any notary public, may be removed by the governor within the term for which such officer shall have been chosen, after giving to such

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\* "The governor may also remove sheriffs, county clerks, district attorneys and registers in counties within the terms for which they shall have been elected, giving to such officers copies of charges against them and an opportunity of being heard in their defense." (§ 1, *art. 10, Constitution.*)

officer a copy of the charges against him and an opportunity to be heard in his defense." (§ 23, *Pub. Officers' Law*, chap. 681, *Laws* 1892.)

**Evidence in proceedings for removal by governor.**—"The governor may take the evidence in any proceeding for the removal by him of a public officer or may direct that the evidence be taken before a justice of the supreme court of the district, or the county judge of the county, in which the officer proceeded against shall reside, or before a commissioner appointed by the governor for that purpose by an appointment in writing, filed in the office of the secretary of state. The governor may direct such judge or commissioner to report to him the evidence taken in such proceeding, or the evidence and the findings by the judge or commissioner of the material facts deemed by such judge or commissioner to be established. The commissioner or judge directed to take such evidence may require witnesses to attend before him, and shall issue subpoenas for such witnesses as may be requested by the officer proceeded against.

"The governor may direct the attorney-general, or the district attorney of the county in which the officer proceeded against shall reside to conduct the examination into the truth of the charges alleged as ground for such removal. If the examination shall be before a commissioner or judge, it shall be held at such place in the county in which the officer proceeded against shall reside as the commissioner or judge shall appoint, and at least eight days after written notice of the time and place of such examination shall have been given to the officer proceeded against.

"All sheriffs, coroners, constables and marshals to whom process shall be directed and delivered under this section shall execute the same without necessary\* delay." (§ 24, *Pub. Officers' Law*, chap. 681, *Laws* 1892.)

**Removal of officers by state officers.**—"Every removal of an officer by one or more state officers, shall be in written duplicate orders, signed by the officer, or by all or a majority of the officers, making the removal, or if made by a

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\* So in the original.

body or board of state officers may be evidenced by duplicate certified copies of the resolution or order of removal, signed either by all or a majority of the officers making the removal, or by the president and clerk of such body or board. Both such duplicate orders or certified copies shall be delivered to the secretary of state, who shall record in his office one of such duplicates, and shall, if the officer removed is a state officer, deliver the other to such officer by messenger, if required by the governor, and otherwise by mail or as the secretary of state shall deem advisable, and shall, if directed by the governor, cause a copy thereof to be published in the state papers. If the officer removed be a local officer, he shall send the other of such duplicates to the county clerk of the county in which the officer removed shall have resided at the time he was chosen to the office, and such clerk shall file the same in his office, and forthwith notify the officer removed of his removal." (§ 25, *Pub. Officers' Law*, chap. 681, *Laws* 1892.)

**Vacancies in elective offices.**—"The legislature shall provide for filling vacancies in office, and in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy." (§ 5, *art. 10, State Constitution*.)

**Creation of vacancies.**—"Every office shall be vacant upon the happening of either of the following events before the expiration of the term thereof :

- "1. The death of the incumbent ;
- "2. His resignation ;
- "3. His removal from office ;
- "4. His ceasing to be an inhabitant of the state, or if he be a local officer, of the political subdivision, or municipal corporation of which he is required to be a resident when chosen ;
- "5. His conviction of a felony, or a crime involving a violation of his oath of office ;
- "6. The judgment of a court, declaring void his election or appointment, or that his office is forfeited or vacant ;

"7. His refusal or neglect to file his official oath or undertaking, if one is required, before or within fifteen days after the commencement of the term of office for which he is chosen, if an elective office, or if an appointive office, within fifteen days after notice of his appointment, or within fifteen days after the commencement of such term; or to file a renewal undertaking within the time required by law, or if no time be so specified, within fifteen days after notice to him in pursuance of law, that such renewal undertaking is required. When a new office or an additional incumbent of an existing office, shall be created, such office shall, for the purposes of an appointment or election, be vacant from the date of its creation, until it shall be filled by election or appointment." (§ 20, *Pub. Officers' Law, chap. 681, Laws 1892.*)

**Vacancies filled by legislature.**— "When a vacancy occurs or exists, other than by removal, in the office of the secretary of state, comptroller, treasurer, attorney-general, or state engineer and surveyor, or a resignation of any such office to take effect at any future day shall have been made while the legislature is in session, the two houses thereof, by joint ballot, shall appoint a person to fill such actual or prospective vacancy." (§ 30, *Pub. Officers' Law, chap. 681, Laws 1892.*)

**Filling other vacancies.**— "If a vacancy shall occur, otherwise than by expiration of term, with no provision of law for filling the same, if the office be elective, the governor shall appoint a person to execute the duties thereof until the vacancy shall be filled by an election. But if the term of such officer shall expire with the calendar year in which the appointment shall be made, or if the office be appointive, the appointee shall hold for the residue of the term." (§ 31, *Pub. Officers' Law, chap. 681, Laws 1892.*)

**Vacancies in office of judges of court of appeals.**— "When a vacancy shall occur otherwise than by expiration of the term, in the office of chief or associate judge of the court of appeals, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the governor, by and with the advice and consent of the senate,

if the senate shall be in session, or if not in session the governor may fill such vacancy by appointment. If any such appointment of chief judge shall be made from among the associate judges, a temporary appointment of associate judge shall be made in like manner; but in such case, the person appointed chief judge shall not be deemed to vacate his office of associate judge any longer than until the expiration of his appointment as chief judge. The powers and jurisdiction of the court shall not be suspended for want of appointment or election, when the number of judges is sufficient to constitute a quorum. All appointments under this section shall continue until and including the last day of December next after the election at which the vacancy shall be filled." (§ 8, *art. 6, State Constitution.*)

**Vacancy in office of justices of supreme court.**—"When a vacancy shall occur, otherwise than by expiration of term, in the office of justice of the supreme court, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until the vacancy shall be so filled the governor, by and with the advice and consent of the senate, if the senate shall be in session, or if not in session, the governor may fill such vacancy by appointment which shall continue until and including the last day of December next after the election at which the vacancy shall be filled." (*Part of § 4, art. 6, State Constitution.*)

**Notice of existence of vacancy.**—"When a judgment shall be rendered by any court convicting an officer of a felony, or of a crime involving a violation of his oath of office, or declaring the election or appointment of any officer to be void, or that the office of any officer has been forfeited or become vacant, the clerk of such court shall give notice thereof to the governor, stating the cause of such conviction or judgment.

"Whenever a public officer shall die before the expiration of his term of office, or shall cease to be a resident of the political subdivision of the state or a municipal corporation in which he is required to be a resident as a condition of continuing in the office, the county clerk of the county in which such officer shall have resided immediately prior

to such death or removal, shall immediately give notice of such death or removal to the governor. If the governor is not authorized to fill any vacancy of which he shall have notice, he shall forthwith give notice of the existence of such vacancy to the officer or officers, or to the body or board of officers authorized to fill the vacancy, or if such vacancy may be filled by an election, to the officers authorized to give notice of such election." (§ 26, *Pub. Officers' Law*, 1892.)

**Filling vacancies in elective offices at general and special elections.**—"A vacancy occurring before October fifteenth in any year, in an office authorized to be filled at a general election, shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election, or unless a special election therefor shall have been ordered to be held on or after such fifteenth day of October and before such general election.

"Upon the failure to elect to any office, except governor or lieutenant-governor, at a general or special election at which the office is authorized to be filled; or upon the death or disqualification of a person elected to office at a general or special election before the commencement of his official term; or upon the occurrence of a vacancy in any elective office, which cannot be filled by appointment for a period extending to or beyond the next general election at which a person may be elected thereto, the governor shall make proclamation of a special election to fill such office, specifying the district or county in which the election is to be held, and the day thereof, which shall not be less than twenty nor more than forty days from the date of the proclamation.

"A special election shall not be held to fill a vacancy in the office of a representative in congress, unless such vacancy occur on or before the first day of July of the last year of the term of office, or unless occurring thereafter and a special session of congress be called to meet before the next general election, or be called after October fourteenth of such year; nor to fill a vacancy in the office of state senator, unless the vacancy occur before the first day of April of the last year of the term of office; nor to fill a vacancy in the office of a mem-



ber of assembly, unless occurring before the first day of April in any year, unless the vacancy occur in either such office of senator or member of assembly, after such first day of April, and a special session of the legislature be called to meet between such first day of April and the next general election, or be called after October fourteenth of such year.

“If a special election to fill an office shall not be held as required by law, the office shall be filled at the next general election.” (§ 4, *Election Law*, 1892.)

# Political Divisions of State, Counties and Towns.

## ELECTION DISTRICTS.

NUMBER OF ELECTION DISTRICTS IN NEW YORK STATE AS  
REPORTED BY COUNTY CLERKS, AUGUST 1, 1896.

	DISTS.		DISTS.
Albany .....	129	Onondaga.....	142
Allegany.....	43	Ontario .....	45
Broome .....	70	Orange.....	95
Cattaraugus .....	60	Orleans .....	29
Cayuga.....	56	Oswego .....	67
Chautauqua .....	82	Otsego.....	116
Chemung.....	41	Putnam.....	15
Chenango .....	42	Queens .....	115
Clinton .....	35	Rensselaer .....	105
Columbia.....	45	Richmond .....	47
Cortland.....	29	Rockland .....	31
Delaware.....	51	St. Lawrence.....	90
Dutchess.....	69	Saratoga .....	60
Erie.....	210	Schenectady .....	29
Essex.....	35	Schoharie .....	33
Franklin .....	43	Schuyler .....	20
Fulton.....	50	Seneca.....	26
Genesee .	30	Steuben .....	70
Greene .....	32	Suffolk .....	64
Hamilton.....	9	Sullivan .....	34
Herkimer .....	50	Tioga .....	37
Jefferson.....	77	Tompkins.....	39
Kings .....	629	Ulster .....	77
Lewis.....	37	Warren .....	30
Livingston .....	37	Washington .....	48
Madison .....	53	Wayne.....	46
Monroe ....	140	Westchester .....	104
Montgomery.....	45	Wyoming.....	34
New York.....	1392	Yates.....	23
Niagara.....	54		
Oneida .....	121		
			<u>5467</u>

**Creation, division and alteration of election districts.—**

“Every town or ward of a city not subdivided into election districts shall be an election district. The town board of every town containing more than four hundred electors, and the common council of every city except New York and Brooklyn, in which there shall be a ward containing more than four hundred electors, shall, on or before the first day of July in each year, whenever necessary so to do, divide such town or ward respectively into election districts, each of which shall be compact in form, wholly within the town or ward, and shall contain respectively as near as may be, four hundred electors, but no such ward or town shall be again divided into election districts until, at some general election, the number of votes cast in one or more districts thereof shall exceed six hundred; and in such a case the redivision shall apply only to the town or ward in which such district is situated. If any part of a city shall be within a town, the town board shall divide into election districts only that part of the town which is outside of the city. No election district including any part of a city shall include any part of a town outside of a city. A town or a ward of a city containing less than four hundred electors may, at least thirty days before the election or appointment (where appointment is directed to be made by law) of inspectors of election of such town or ward, be divided into election districts by the board or other body charged with such duty when, in the judgment of such board or body, the convenience of the electors shall be promoted thereby. The creation, division or alteration of an election district outside of a city shall take effect immediately after the next town meeting, and at such next town meeting inspectors of election shall be elected for each election district as constituted by such creation, division or alteration. If the creation, division or alteration of an election district is rendered necessary by the creation or alteration of a town, or ward of a city, it shall take effect immediately, but a new town or ward shall not be created, and no new town or ward shall be subdivided into election districts between the first day of August of any year, and the day of the general election next thereafter. If inspectors are not elected or appointed for such district outside of a city before September the first next thereafter, the town board of the town shall appoint four inspectors of election for such district. On or before the first day of July in the year eighteen hundred and ninety-seven the board of police commissioners of the city of New

York and the board of elections of the city of Brooklyn, shall divide such cities respectively into election districts upon the basis of the registration of electors for the general election held in such cities in the year eighteen hundred and ninety-six. Each such election district so established shall contain as near as may be four hundred electors. Each election district shall be compact in form, and in the city of New York, wholly within one assembly district, and in the city of Brooklyn, wholly within one ward. No election district shall contain portions of two congressional or assembly districts. Such election districts so established shall not again be changed until at some general election for the office of governor, the number of registered voters therein shall exceed six hundred, except where changes are made necessary by a change in the boundaries of congressional or assembly districts or ward lines, provided, however, that when the number of registered voters in any election district shall, for two consecutive years, be less than two hundred and fifty, such district may be consolidated with contiguous election districts in the discretion of such boards respectively.

"If a town shall include a city, or a portion of a city, only such election districts as are wholly outside of the city shall be deemed election districts of the town, except for the purpose of town meetings." (§ 8, *Election Law*.)

**Maps and certificates of boundaries of election districts.**—"When a ward of a city or an assembly district within a city shall be divided into two or more election districts, the officers or board creating, dividing or altering such election districts, shall forthwith make a map or description of such division, defining it by known boundaries, and cause such map or description to be kept open for public inspection in the office of the city clerk, and cause copies thereof to be posted not less than ten days prior to the first day of registration in each year, in at least ten of the most public places in each election district so created, divided or altered, and shall, prior to every election, furnish copies of such map or description to the inspectors of election in each election district of such ward or assembly district. The officers creating, dividing or altering an election district in a town shall forthwith make a certificate or map thereof, exhibiting the districts so created, divided or altered, and their numbers respectively, and file the same in the county clerk's office, and a

copy thereof in the town clerk's office, and cause copies of the same to be posted in at least five of the most public places in each election district of such town, and the county clerk shall, prior to every general election, furnish copies of such maps or certificates to the inspectors of election in each election district of such town, provided such election district is not coterminous with the town lines." (§ 9, *Election Law*, 1892.)

### SENATE DISTRICTS.

**As apportioned by the state constitution in 1895.**

*First district.*—Counties of Suffolk and Richmond.

*Second district.*—County of Queens.

*Third district.*—That part of the county of Kings comprising the first, second, third, fourth, fifth and sixth wards of the city of Brooklyn.

*Fourth district.*—That part of the county of Kings comprising the seventh, thirteenth, nineteenth and twenty-first wards of the city of Brooklyn.

*Fifth district.*—That part of the county of Kings comprising the eighth, tenth, twelfth and thirtieth wards of the city of Brooklyn, and the ward of the city of Brooklyn which was formerly the town of Gravesend.

*Sixth district.*—That part of the county of Kings comprising the ninth, eleventh, twentieth and twenty-second wards of the city of Brooklyn.

*Seventh district.*—That part of the county of Kings comprising the fourteenth, fifteenth, sixteenth and seventeenth wards of the city of Brooklyn.

*Eighth district.*—That part of the county of Kings comprising the twenty-third, twenty-fourth, twenty-fifth and twenty-ninth wards of the city of Brooklyn, and the town of Flatlands.

*Ninth district.*—That part of the county of Kings comprising the eighteenth, twenty-sixth, twenty-seventh and twenty-eighth wards of the city of Brooklyn.

*Tenth district.*—That part of the county of New York within and bounded by a line beginning at Canal street and the Hudson river, and running thence along Canal street, Hudson street, Dominick street, Varick street, Broome street, Sullivan street, Spring street, Broadway, Canal street, the Bowery, Division street, Grand street

and Jackson street, to the East river and thence around the southern end of Manhattan island, to the place of beginning, and also Governor's, Bedlow's and Ellis islands.

*Eleventh district.*— That part of the county of New York lying north of district number ten, and within and bounded by a line beginning at the junction of Broadway and Canal street, and running thence along Broadway, Fourth street, the Bowery and Third avenue, St. Mark's place, Avenue A, Seventh street, Avenue B, Clinton street, Rivington street, Norfolk street, Division street, Bowery and Canal street, to the place of beginning.

*Twelfth district.*— That part of the county of New York lying north of districts numbers ten and eleven and within and bounded by a line beginning at Jackson street and the East river, and running thence through Jackson street, Grand street, Division street, Norfolk street, Rivington street, Clinton street, Avenue B, Seventh street, Avenue A, St. Mark's place, Third avenue, East Fourteenth street to the East river, and along the East river, to the place of beginning.

*Thirteenth district.*— That part of the county of New York lying north of district number ten, and within and bounded by a line beginning at the Hudson river at the foot of Canal street, and running thence along Canal street, Hudson street, Dominick street, Varick street, Broome street, Sullivan street, Spring street, Broadway, Fourth street, the Bowery and Third avenue, Fourteenth street, Sixth avenue, West Fifteenth street, Seventh avenue, West Nineteenth street, Eighth avenue, West Twentieth street, and the Hudson river to the place of beginning.

*Fourteenth district.*— That part of the county of New York lying north of districts numbers twelve and thirteen, and within and bounded by a line beginning at East Fourteenth street and the East river, and running thence along East Fourteenth street, Irving place, East Nineteenth street, Third avenue, East Twenty-third street, Lexington avenue, East Fifty-third street, Third avenue, East Fifty-second street, and the East river, to the place of beginning.

*Fifteenth district.*— That part of the county of New York lying north of district number thirteen, and within and bounded by a line beginning at the junction of West Fourteenth street and Sixth avenue, and running thence along Sixth avenue, West Fifteenth street, Seventh avenue, West Fortieth street, Eighth avenue, and the transverse road across Central Park at Ninety-seventh

street, Fifth avenue, East Ninety-sixth street, Lexington avenue, East Twenty-third street, Third Avenue, East Nineteenth street, Irving place and Fourteenth street, to the place of beginning.

*Sixteenth district.*—That part of the county of New York lying north of district number thirteen, and within and bounded by a line beginning at Seventh avenue and West Nineteenth street, and running thence along West Nineteenth street, Eighth avenue, West Twentieth street, the Hudson river, West Forty-sixth street, Tenth avenue, West Forty-third street, Eighth avenue, West Fortieth street and Seventh avenue, to the place of beginning.

*Seventeenth district.*—That part of the county of New York lying north of district number sixteen, and within and bounded by a line beginning at the junction of Eighth avenue and West Forty-third street, and running thence along West Forty-third street, Tenth avenue, West Forty-sixth street, the Hudson river, West Eighty-ninth street, Tenth or Amsterdam avenue, West Eighty-sixth street, Ninth or Columbus avenue, West Eighty-first street and Eighth avenue, to the place of beginning.

*Eighteenth district.*—That part of the county of New York lying north of district number fourteen, and within and bounded by a line beginning at the junction of East Fifty-second street, and the East river, and running thence along East Fifty-second street, Third avenue, East Fifty-third street, Lexington avenue, East Eighty-fourth street, Second avenue, East Eighty-third street and the East river, to the place of beginning; and also Blackwell's island.

*Nineteenth district.*—That part of the county of New York lying north of district number seventeen, and within and bounded by a line beginning at West Eighty-ninth street and the Hudson river, and running thence along the Hudson river and Spuyten Duyvil creek around the northern end of Manhattan island; thence southerly along the Harlem river to the north end of Fifth avenue; thence along Fifth avenue, East One Hundred and Twenty-ninth street, Fourth or Park avenue, East One Hundred and Tenth street, Fifth avenue, the transverse road across Central Park at Ninety-seventh street, Eighth avenue, West Eighty-first street, Ninth or Columbus avenue, West Eighty-sixth street, Tenth or Amsterdam avenue and West Eighty-ninth street, to the place of beginning.

*Twentieth district.*—That part of the county of New York lying north of districts numbers eighteen and fifteen, and within and

bounded by a line beginning at East Eighty-third street and the East river, running thence through East Eighty-third street, Second avenue, East Eighty-fourth street, Lexington avenue, East Ninety-sixth street, Fifth avenue, East One Hundred and Tenth street, Fourth or Park avenue, East One Hundred and Nineteenth street to the Harlem river, and along the Harlem and East rivers, to the place of beginning; and also Randall's island and Ward's island.

All of the above districts in the county of New York, bounded upon or along the boundary waters of the county, shall be deemed to extend to the county line.

*Twenty-first district.*— That part of the county of New York lying north of districts numbers nineteen and twenty, within and bounded by a line beginning at East One Hundred and Nineteenth street and the Harlem river, and running thence along East One Hundred and Nineteenth street, Fourth or Park avenue, One Hundred and Twenty-ninth street, Fifth avenue and the Harlem river, to the place of beginning; and all that part of the county of New York not hereinbefore described.

*Twenty-second district.*— County of Westchester.

*Twenty-third district.*— Counties of Orange and Rockland.

*Twenty-fourth district.*— Counties of Dutchess, Columbia and Putnam.

*Twenty-fifth district.*— Counties of Ulster and Greené.

*Twenty-sixth district.*— Counties of Delaware, Chenango and Sullivan.

*Twenty-seventh district.*— Counties of Montgomery, Fulton, Hamilton and Schoharie.

*Twenty-eighth district.*— Counties of Saratoga, Schenectady and Washington.

*Twenty-ninth district.*— County of Albany.

*Thirtieth district.*— County of Rensselaer.

*Thirty-first district.*— Counties of Clinton, Essex and Warren.

*Thirty-second district.*— Counties of St. Lawrence and Franklin.

*Thirty-third district.*— Counties of Otsego and Herkimer.

*Thirty-fourth district.*— County of Oneida.

*Thirty-fifth district.*— Counties of Jefferson and Lewis.

*Thirty-sixth district.*— County of Onondaga.

*Thirty-seventh district.*— Counties of Oswego and Madison.

*Thirty-eighth district.*— Counties of Broome, Cortland and Tioga.

*Thirty-ninth district.*— Counties of Cayuga and Seneca.



## 230 POLITICAL DIVISIONS OF STATE, COUNTIES AND TOWNS.

*Fortieth district.*—Counties of Chemung, Tompkins and Schuyler.

*Forty-first district.*—Counties of Steuben and Yates.

*Forty-second district.*—Counties of Ontario and Wayne.

*Forty-third district.*—That part of the county of Monroe comprising the towns of Brighton, Henrietta, Irondequoit, Mendon, Penfield, Perinton, Pittsford, Rush and Webster, and the fourth, sixth, seventh, eighth, twelfth, thirteenth, fourteenth, sixteenth, seventeenth and eighteenth wards of the city of Rochester, as at present constituted.

*Forty-fourth district.*—That part of the county of Monroe comprising the towns of Chili, Clarkson, Gates, Greece, Hamlin, Ogden, Parma, Riga, Sweden and Wheatland, and the first, second, third, fifth, ninth, tenth, eleventh, fifteenth, nineteenth and twentieth wards of the city of Rochester, as at present constituted.

*Forty-fifth district.*—Counties of Niagara, Genesee and Orleans.

*Forty-sixth district.*—Counties of Allegany, Livingston and Wyoming.

*Forty-seventh district.*—That part of the county of Erie comprising the first, second, third, sixth, fifteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third and twenty-fourth wards of the city of Buffalo, as at present constituted.

*Forty-eighth district.*—That part of the county of Erie comprising the fourth, fifth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth and sixteenth wards of the city of Buffalo, as at present constituted.

*Forty-ninth district.*—That part of the county of Erie comprising the seventeenth, eighteenth and twenty-fifth wards of the city of Buffalo, as at present constituted; and all the remainder of the said county of Erie not hereinbefore described.

*Fiftieth district.*—Counties of Chautauqua and Cattaraugus.

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### ASSEMBLY DISTRICTS.

(As apportioned by the constitution of 1894, and divided into assembly districts by boards of supervisors in June, 1895.)

#### ALBANY COUNTY.

*First district.*—Composed of towns of Bethlehem, Coeymans and New Scotland, and the first, fourteenth, fifteenth, sixteenth

and eighteenth wards and part of the second ward of the city of Albany; 37,896 inhabitants excluding aliens.

*Second district.*— Towns of Berne, Guilderland, Knox, Rensselaerville and Westerlo, and the seventh, tenth, eleventh, thirteenth, seventeenth and nineteenth wards and part of the twelfth ward of the city of Albany; 37,752 inhabitants excluding aliens.

*Third district.*— The third, fourth, fifth, sixth, eighth and ninth wards and parts of the second and twelfth wards of the city of Albany; 38,323 inhabitants excluding aliens.

*Fourth district.*— The city of Cohoes and towns of Colonie and Watervliet; 42,777 inhabitants excluding aliens.

#### ALLEGANY COUNTY — ONE DISTRICT.

##### BROOME COUNTY.

*First district.*— Towns of Binghamton, Colesville, Conklin, Dickinson, Fenton, Kirkwood, Sandford and Windsor and the seventh, eighth, ninth, tenth, eleventh, twelfth and thirteenth wards of the city of Binghamton; 30,892 inhabitants excluding aliens.

*Second district.*— The towns of Barker, Chenango, Lisle, Maine, Nanticoke, Triangle, Union and Vestal, and the first, second, third, fourth, fifth and sixth wards of the city of Binghamton; 30,618 inhabitants excluding aliens.

##### CATTARAUGUS COUNTY.

*First district.*— City of Olean, towns of Allegany, Ashford, Farmersville, Franklinville, Freedom, Hinsdale, Humphrey, Ischua, Lyndon, Machias, Olean, Portville and Yorkshire; 30,131 inhabitants excluding aliens.

*Second district.*— Towns of Carrollton, Cold Spring, Conewango, Dayton, East Otto, Elko, Ellicottville, Great Valley, Leon, Little Valley, Mansfield, Napoli, New Albion, Otto, Perrysburg, Persia, Randolph, Red House, Salamanca and South Valley; 29,594 inhabitants excluding aliens.

##### CAYUGA COUNTY.

*First district.*— Towns of Brutus, Cato, Conquest, Ira, Mentz, Montezuma, Sennett, Sterling, Throop, Victory, and the first, second, fifth, sixth and tenth wards of the city of Auburn; 30,536 inhabitants excluding aliens.

*Second district.*— Towns of Aurelius, Fleming, Genoa, Ledyard, Locke, Moravia, Niles, Owasco, Scipio, Sempronius, Springport,

## 232 POLITICAL DIVISIONS OF STATE, COUNTIES AND TOWNS

Summer Hill and Venice, and the third, fourth, seventh, eighth and ninth wards of the city of Auburn; 29,793 inhabitants excluding aliens.

### CHAUTAUQUA COUNTY.

*First district.*—Towns of Arkwright, Busti, Carroll, Charlotte, Cherry Creek, Ellery, Ellicott, Ellington, Gerry, Harmony, Jamestown, Kiantone, Poland, Stockton and Villenova; 37,353 inhabitants excluding aliens.

*Second district.*—Towns of Chautauqua, Clymer, Dunkirk, Hanover, French Creek, Mina, Pomfret, Portland, Ripley, Sheridan, Sherman and Westfield; 36,718 inhabitants excluding aliens.

CHEMUNG COUNTY—ONE DISTRICT.

CHENANGO COUNTY—ONE DISTRICT.

CLINTON COUNTY—ONE DISTRICT.

COLUMBIA COUNTY—ONE DISTRICT.

CORTLAND COUNTY—ONE DISTRICT.

DELAWARE COUNTY—ONE DISTRICT.

### DUTCHESS COUNTY.

*First district.*—Towns of Milan, Pine Plains, North East, Stamford, Amenia, Washington, Pleasant Valley, Lagrange, Unionvale, Dover, Pawling, Beekman, East Fishkill, Fishkill and Wappinger's Falls; 37,835 inhabitants excluding aliens.

*Second district.*—Towns of Red Hook, Rhinebeck, Clinton, Hyde Park, Poughkeepsie and Poughkeepsie city; 37,213 inhabitants excluding aliens.

### ERIE COUNTY.

*First district.*—The first, second, third, sixth, nineteenth and twentieth wards of the city of Buffalo; 48,249 inhabitants excluding aliens.

*Second district.*—The fifteenth, twenty-first, twenty-second, twenty-third and twenty-fourth wards of the city of Buffalo, 51,526 inhabitants excluding aliens.

*Third district.*—The fifth, eleventh and fourteenth wards of the city of Buffalo; 34,216 inhabitants excluding aliens.

*Fourth district.*—The fourth, eighth, ninth and tenth wards of the city of Buffalo; 36,470 inhabitants excluding aliens.

*Fifth district.*—The seventh, twelfth, thirteenth and sixteenth wards of the city of Buffalo; 31,215 inhabitants excluding aliens.

*Sixth district.*—The seventeenth, eighteenth and twenty-fifth wards of the city of Buffalo ; 35,767 inhabitants excluding aliens.

*Seventh district.*—The towns of Elma, Manilla, Cheektowaga, Lancaster, Alden, Newstead, Clarence, Amherst, Tonawanda and Grand Island ; 31,632 inhabitants excluding aliens.

*Eighth district.*—The towns of Collins, Concord, Sardinia, North Collins, Brant, Eden, Evans, Boston, Colden, Holland, Wales, Aurora, East Hamburg, Hamburg and West Seneca ; 33,519 inhabitants excluding aliens.

ESSEX COUNTY — ONE DISTRICT.

FRANKLIN COUNTY — ONE DISTRICT.

FULTON AND HAMILTON COUNTIES — ONE DISTRICT.

GENESEE COUNTY — ONE DISTRICT.

GREENE COUNTY — ONE DISTRICT.

HERKIMER COUNTY — ONE DISTRICT.

#### JEFFERSON COUNTY.

*First district.*—Towns of Adams, Brownville, Cape Vincent, Clayton, Ellisburg, Henderson, Hounsfield, Lorraine, Lyme, Pamela and the third and fourth wards of the city of Watertown ; 32,999 inhabitants excluding aliens.

*Second district.*—Towns of Alexandria, Antwerp, Champion, Le Ray, Orleans, Philadelphia, Rodman, Rutland, Theresa, Watertown, Wilna and Worth and the first and second wards of the city of Watertown ; 33,121 inhabitants excluding aliens.

#### KINGS COUNTY.

*First district.*—Beginning at a point on the boundary line of the county of Kings, formed by the junction of a line drawn in continuation of the center line of Atlantic avenue in the city of Brooklyn ; thence easterly to the center of Henry street ; thence southerly to the center of Amity street ; thence easterly to the center of Court street ; thence southerly to the center of Bergen street ; thence easterly to the center of Fourth avenue ; thence northerly to the center of Flatbush avenue ; thence northwesterly to the center of Fulton street ; thence westerly and northerly and westerly to the center of Hicks street ; thence southerly to the center of Poplar street ; thence westerly to the center of Willow street ; thence southerly to the center of Middagh street ; thence west-

## 234 POLITICAL DIVISIONS OF STATE, COUNTIES AND TOWNS.

erly to the center of Columbia Heights ; thence northerly to the center of Doughty street ; thence westerly to the center of Furman street ; thence northerly to the center of Fulton street ; thence westerly to the boundary line of the county of Kings on the East river ; thence southerly to the point of beginning. Comprises part of first ward, the third ward and part of sixth ward of the city of Brooklyn ; 39,133 inhabitants excluding aliens.

*Second district.*—Beginning at a point on the boundary line of the county of Kings on the East river, formed by the junction of a line drawn in continuation of the center line of Fulton street ; running thence easterly along the center of Fulton street to the center of Furman street ; thence southerly to the center of Doughty street ; thence easterly to the center of Columbia Heights ; thence southerly to the center of Middagh street ; thence easterly to the center of Willow street ; thence northerly to the center of Poplar street ; thence easterly to the center of Hicks street ; thence northerly to the center of Fulton street ; thence easterly, southerly and easterly to the center of Bridge street ; thence northerly to the center of Johnson street ; thence easterly to the center of Navy street ; thence northerly to the boundary line of the United States navy yard ; thence northerly along said boundary line to a point on the boundary line of the county of Kings on the East river ; thence along said boundary line westerly to the place of beginning. Comprises the second, fourth and fifth wards and part of first ward of the city of Brooklyn ; 38,958 inhabitants excluding aliens.

*Third district.*—Beginning at a point on the boundary line of the county of Kings on the East river, formed by the junction of a line drawn in continuation of the center line of Atlantic avenue ; running thence easterly along the center of Atlantic avenue to the center of Henry street ; thence southerly to the center of Amity street ; thence easterly to the center of Court street ; thence southerly to the center of Fourth place ; thence westerly along the center of Fourth place and Coles street to the center of Hamilton avenue ; thence northwesterly along the center of Hamilton avenue to a point on the boundary line of the county of Kings on the East river ; thence along the East river northerly to the place of beginning. Comprises the sixth ward, except the third election district of the city of Brooklyn ; 39,382 inhabitants excluding aliens.

*Fourth district.*—Beginning at a point on the boundary line of the county of Kings on the East river, on a line drawn through

the center of Division avenue; thence easterly along the center of Division avenue to a point where the center line of Lee avenue forms a junction with the center line of Division avenue; thence southeasterly to the center of Rodney street; thence southwesterly to the center of Bedford avenue; thence southeasterly and again southerly to the center of Flushing avenue; thence easterly to the center of Sanford street; thence southerly to the center of Park avenue; thence easterly to the center of Nostrand avenue; thence southerly to the center of Myrtle avenue; thence westerly to the center of Bedford avenue; thence southerly to the center of Breevort place; thence westerly to the center of Franklin avenue; thence southerly to the center of Atlantic avenue; thence westerly to the center of Washington avenue; thence to its junction with the center of the Wallabout canal; thence northwesterly to its point of intersection with the boundary line of the county of Kings on the East river; thence northerly to the place of beginning. Comprises the seventh ward, part of nineteenth ward and part of twenty-first ward of the city of Brooklyn; 47,552 inhabitants excluding aliens.

*Fifth district.*—Beginning at a point on the boundary line of the county of Kings on the East river, where the same would be intersected by the center line of Grand street, running thence southeasterly to the center line of Rodney street; thence southwesterly to the center line of Broadway; thence southeasterly to the center line of Flushing avenue; thence westerly to the center of Bedford avenue; thence northwesterly and again northwesterly to the center of Rodney street; thence northeasterly to the center of Lee avenue; thence northwesterly to the center of Division avenue; thence westerly and again westerly to a point on the boundary line of the county of Kings on the East river; thence northwesterly and northerly to the place of beginning. Comprises the thirteenth ward and part of nineteenth ward of the city of Brooklyn; 48,075 inhabitants excluding aliens.

*Sixth district.*—Beginning at a point formed by the intersection of the center lines of Lafayette avenue and Broadway; running thence northwesterly to the center of Flushing avenue; thence westerly to the center of Sanford street; thence southerly to the center of Park avenue; thence easterly to the center of Nostrand avenue; thence southerly to the center of Myrtle avenue; thence westerly to the center of Bedford avenue; thence southerly to the center of Lafayette avenue; thence easterly along the center of

Lafayette avenue to the place of beginning. Comprises the twenty-first ward, except election districts one, two and three, of the city of Brooklyn; 48,033 inhabitants excluding aliens.

*Seventh district.*—Beginning at a point on the Gowanus canal, formed by the junction of a line drawn in continuation of the center line of Nineteenth street; thence southeasterly to the center of Third avenue; thence southwesterly to the center of Twentieth street; thence southeasterly to the center of Sixth avenue; thence southwesterly to the center of Twenty-third street; thence southeasterly to the center of Seventh avenue; thence northeasterly to the center of Twentieth street; thence southeasterly along the southerly side of Twentieth street to a point distant one hundred feet northwesterly from the corner formed by the intersection of the southerly side of Twentieth street with the westerly side of Ninth avenue; thence southwesterly on a line parallel with and distant one hundred feet from the westerly side of Ninth avenue to the northerly line of Twenty-first street; thence southeasterly along the northerly line of Twenty-first street to the westerly line of Ninth avenue, and thence northeasterly along the westerly line of Ninth avenue to the southerly side of Twentieth street; thence southeasterly along the southerly side of Twentieth street to the westerly line of Tenth avenue; thence southwesterly along the westerly line of Tenth avenue to the southerly side of Twenty-second street, as laid down in the commissioners' map of the city of Brooklyn; thence southeasterly along the southerly side of Twenty-second street as so laid down; thence again southerly to the boundary line separating the city of Brooklyn from the former town of Flatbush, thence westerly and again northwesterly along said boundary line to its junction with the boundary line separating the former town of New Utrecht from the city of Brooklyn; thence along said boundary line, first southerly and following in all other directions along the boundary line separating the town of Flatlands and the former town of Gravesend, continuing along the southerly boundary line of the county of Kings, formed by, or on the waters of the Atlantic ocean, Gravesend bay, the Narrows, New York bay, Gowanus bay, the East river and Gowanus canal to the place of beginning. Comprises part of the eighth ward, the thirtieth and thirty-first wards of the city of Brooklyn; 37,559 inhabitants excluding aliens.

*Eighth district.*—Beginning at a point formed by the junction of the center line of First place with the center line of Court street;

running thence southeasterly along the center of First place to the center of Smith street; thence southwesterly to the center of Second street; thence southeasterly to the center of Bond street; thence northeasterly to the center of First street to the Gowanus canal; thence easterly and northeasterly along the Gowanus canal to the center of First street; thence southeasterly to the center of Fourth avenue; thence northeasterly to the center of Bergen street; thence northwesterly to the center of Court street; thence southwesterly along the center of Court street to the place of beginning. Comprises the tenth ward, except election districts twenty-five, twenty-six and twenty-seven of the city of Brooklyn; 38,799 inhabitants excluding aliens.

*Ninth district.*—Beginning at a point formed by the junction of the center line of First place with the center line of Court street; running thence southeasterly along the center of First place to the center of Smith street; thence southwesterly to the center of Second street; thence southeasterly along the center of Second street to the center of Bond street; thence northeasterly to the center of First street; thence along First street to its intersection with Gowanus canal; thence along Gowanus canal in all its directions to its intersection with Prospect avenue; thence southeasterly along Prospect avenue to the center of Sixth avenue; thence southwesterly to the center of Twentieth street; thence northwesterly to the center of Third avenue; thence northerly to the center of Nineteenth street; thence northwesterly to the Gowanus canal; thence southwesterly along said canal to Gowanus bay; thence north and northwest along the boundary line of the county of Kings to a point on the East river opposite the center of Hamilton avenue; thence southeasterly along the center of Hamilton avenue to its intersection with the center line of Coles street; thence northeasterly to the center of Henry street; thence southeasterly to the center of Fourth place; thence northeasterly to the center of Court street; thence northeasterly to the place of beginning. Comprises the twelfth ward, part of tenth ward and part of eighth ward of the city of Brooklyn; 38,068 inhabitants excluding aliens.

*Tenth district.*—Beginning at a point on the boundary line of the county of Kings on the East river or Wallabout bay formed by the junction of a line drawn in continuation of the center line of Washington avenue; running thence southerly along the center of Washington avenue to the center of Atlantic avenue; thence



westerly to the center of South Portland avenue; thence northwesterly to the center of Fulton street; thence westerly to the center of Fort Greene place; thence northerly to the center of De Kalb avenue; thence westerly to the center of Rockwell place; thence southerly to the center of Flatbush avenue; thence northerly to the center of Fulton street; thence westerly to the center of Bridge street; thence northerly to the center of Johnson street; thence easterly to the center of Navy street; thence northerly to the boundary line of the United States navy yard; and a line in continuation thereof to its junction with the boundary line of the county of Kings on the East river or Wallabout bay; thence easterly along said boundary line to the place of beginning. Comprises the twentieth ward and part of the eleventh ward of the city of Brooklyn; 41,041 inhabitants excluding aliens.

*Eleventh district.*—Beginning at a point formed by the junction of the center lines of Franklin and Atlantic avenues; running thence westerly along the center line of Atlantic avenue to the center of South Portland avenue; thence northerly to the center of Fulton street; thence westerly to the center of Fort Greene place; thence northerly to the center of De Kalb avenue; thence westerly to the center of Rockwell place; thence southerly to the center of Flatbush avenue; thence southeasterly to the center of Fourth avenue; thence southwestwardly to the center of Garfield place; thence southeasterly to the center of Seventh avenue; thence northeasterly to the center of Carroll street; thence easterly to the center of Ninth avenue; thence northerly along the center of Ninth avenue continuing to a point at the center of Flatbush avenue; thence southeasterly to its junction with the boundary line of the former town of Flatbush; thence northeasterly and southeasterly along said boundary line to a point formed by the junction of the center line of Franklin avenue; thence northeasterly along the center line of Franklin avenue to the place of beginning. Comprises the ninth ward, part of the eleventh ward and part of the twenty-second ward of the city of Brooklyn; 41,461 inhabitants excluding aliens.

*Twelfth district.*—Beginning at a point on the Gowanus canal formed by the junction of a line drawn in continuation of the center line of Prospect avenue; thence southeasterly along Prospect avenue to the center line of Sixth avenue; thence southwestwardly to the center of Twenty-third street; thence southeasterly to the center of Seventh avenue; thence northeasterly to the cen-

ter of Twentieth street; thence southeasterly along the southerly side of Twentieth street to a point distant one hundred feet northwesterly from the corner formed by the intersection of the southerly side of Twentieth street with the westerly side of Ninth avenue; thence southwesterly on a line parallel with and distant one hundred feet from the westerly side of Ninth avenue to the northerly line of Twenty-first street; thence southeasterly along the northerly line of Twenty-first street to the westerly line of Ninth avenue and thence northeasterly along the westerly line of Ninth avenue to the southerly side of Twentieth street; thence southeasterly along the southerly side of Twentieth street to the westerly line of Tenth avenue; thence southwesterly along the westerly line of Tenth avenue to the southerly side of Twenty-second street, as laid down on the commissioners' map of the city of Brooklyn; thence southeasterly along the southerly side of Twenty-second street, as so laid down, to the line separating the former town of Flatbush from the city of Brooklyn; thence along said boundary line in all its directions to the center line of Flatbush avenue; thence northwesterly along Flatbush avenue to a point on the Plaza opposite the center of Ninth avenue; thence southwesterly along the center of Ninth avenue to the center of Carroll street; thence northwesterly to the center of Seventh avenue; thence southwesterly to the center of Garfield place; thence northwesterly to the center of Fourth avenue; thence southwesterly to the center of First street; thence northwesterly to the center of Second avenue; thence southwesterly to the center line of the Gowanus canal; thence southwesterly along the Gowanus canal to the place of beginning. Comprises part of twenty-second ward and part of former eighth ward of the city of Brooklyn; 40,682 inhabitants excluding aliens.

\* *Thirteenth district.*— Beginning at a point formed by the junction of the centre line of Ten Eyck street with the centre line of Bushwick avenue, running thence northerly along the centre line of Bushwick avenue to its junction with the centre line of North Second street; thence westerly to the junction with the centre line of Humboldt street; thence northerly to its junction with the centre line of Richardson street; thence westerly to its junction with the centre line of Meeker avenue; thence northeasterly along the centre line of Meeker avenue to its junction with the boundary line between the counties of Kings and Queens; thence along said boundary line to its point of junction with the centre line of

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\* Thus reapportioned by order of court, Aug. 5, 1895.

Vail street ; thence southwesterly to its junction with the centre line of Calyer street ; thence westerly along the centre line of Calyer street to its point of junction with the centre line of Oakland street ; thence northerly to the centre line of Greenpoint avenue ; thence westerly to its point of junction with the centre line of Manhattan avenue ; thence northerly to its junction with the centre line of Kent street ; thence westerly to its junction with the centre line of Franklin street ; thence southerly to its junction with the centre line of Noble street ; thence easterly to its junction with the centre line of Manhattan avenue ; thence easterly to its junction with the centre line of Norman avenue ; thence southwesterly to its junction with the centre line of Wythe avenue and North Fourteenth street ; thence southeasterly to its junction with the centre line of Union avenue ; thence southwesterly and southerly to its junction with the centre line of Grand street ; thence westerly to its junction with the centre line of Hooper street ; thence easterly along the centre line of South First street and Mauger street to its junction with the centre line of Leonard street ; thence southerly to its junction with the centre line of Ten Eyck street ; thence easterly along the centre line of Ten Eyck street to the place of beginning. Comprises part of the seventeenth ward and part of the fifteenth ward of the city of Brooklyn ; 45,193 inhabitants excluding aliens.

\* *Fourteenth district.*—Beginning at a point on the boundary line of the county of Kings on the East river opposite the centre of Grand street, running thence easterly along the centre of Grand street to its junction with the centre of Havemeyer street ; thence northerly to its junction with the centre line of North Second street ; thence easterly to its junction with the centre line of Marcy avenue ; thence southerly to its junction with the center line of Ainslie street ; thence easterly to its junction with the center line of Rodney street ; thence northerly to its junction with the centre line of North Second street ; thence easterly to its junction with the centre line of Union avenue ; thence northerly to its junction with the centre line of Driggs avenue ; thence northerly to its junction with the centre line of North Fourteenth street ; thence northwesterly to its junction with the centre line of Wythe avenue and Norman avenue ; thence northerly and north-easterly along the centre line of Norman avenue to its junction with the centre line of Manhattan avenue ; thence northerly to its

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\* Thus reapportioned by order of court, Aug. 5, 1895.

junction with the centre line of Noble street ; thence westerly to its junction with the centre line of Franklin street ; thence northerly to its junction with the centre line of Kent street ; thence easterly to its junction with the centre line of Manhattan avenue ; thence southerly to its junction with the centre line of Greenpoint avenue ; thence easterly to its junction with the centre line of Oakland street ; thence southerly to its junction with the centre line of Calyer street ; thence easterly along the centre line of Calyer street to its junction with the centre line of Vail street ; thence along the centre line of Vail street to its point of junction with the boundary line separating the counties of Kings and Queens ; thence along said boundary line in all its directions to its junction with the boundary line of the county of Kings on the East river ; thence southerly along said boundary line to the place of beginning. Comprises part of the fourteenth ward and part of the seventeenth ward of the city of Brooklyn ; 45,631 inhabitants excluding aliens.

\* *Fifteenth district.*—Beginning at a point formed by the junction of the centre line of Rodney street with the centre line of Broadway, running thence southeasterly along Broadway to its intersection by the centre line of Flushing avenue ; thence easterly to its junction with the centre line of Flushing avenue ; thence easterly to its junction with the centre line of Bushwick avenue ; thence northerly along the centre line of Bushwick avenue or road, as the same was originally laid down on the commissioners' map of the town of Bushwick, to its point of junction with the centre line of Ten Eyck street ; thence westerly to its intersection by the centre line of Leonard street ; thence northerly to its junction with the centre line of Mauger street ; thence northerly along the centre line of Mauger street and South First street to its junction with the centre line of Hooper street ; thence northerly to its junction with the center line of Grand street ; thence easterly to its junction with the centre line of Union avenue ; thence northerly to its junction with the centre line of North Second street ; thence westerly to its junction with the centre line of Rodney street ; thence southerly to its junction with the centre line of Ainslie street ; thence westerly to its junction with the centre line of Marcy avenue ; thence northerly to its junction with the centre line of North Second street ; thence westerly to its junction with the centre line of Havemeyer street ; thence

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\* Thus reapportioned by order of court, Aug. 5, 1895.

Vail street ; thence southwesterly to its junction with the centre line of Calyer street ; thence westerly along the centre line of Calyer street to its point of junction with the centre line of Oakland street ; thence northerly to the centre line of Greenpoint avenue ; thence westerly to its point of junction with the centre line of Manhattan avenue ; thence northerly to its junction with the centre line of Kent street ; thence westerly to its junction with the centre line of Franklin street ; thence southerly to its junction with the centre line of Noble street ; thence easterly to its junction with the centre line of Manhattan avenue ; thence easterly to its junction with the centre line of Norman avenue ; thence southwesterly to its junction with the centre line of Wythe avenue and North Fourteenth street ; thence southeasterly to its junction with the centre line of Union avenue ; thence southwesterly and southerly to its junction with the centre line of Grand street ; thence westerly to its junction with the centre line of Hooper street ; thence easterly along the centre line of South First street and Mauger street to its junction with the centre line of Leonard street ; thence southerly to its junction with the centre line of Ten Eyck street ; thence easterly along the centre line of Ten Eyck street to the place of beginning. Comprises part of the seventeenth ward and part of the fifteenth ward of the city of Brooklyn ; 45,193 inhabitants excluding aliens.

\* *Fourteenth district.*—Beginning at a point on the boundary line of the county of Kings on the East river opposite the centre of Grand street, running thence easterly along the centre of Grand street to its junction with the centre of Havemeyer street ; thence northerly to its junction with the centre line of North Second street ; thence easterly to its junction with the centre line of Marcy avenue ; thence southerly to its junction with the center line of Ainslie street ; thence easterly to its junction with the center line of Rodney street ; thence northerly to its junction with the centre line of North Second street ; thence easterly to its junction with the centre line of Union avenue ; thence northerly to its junction with the centre line of Driggs avenue ; thence northerly to its junction with the centre line of North Fourteenth street ; thence northwesterly to its junction with the centre line of Wythe avenue and Norman avenue ; thence northerly and north-easterly along the centre line of Norman avenue to its junction with the centre line of Manhattan avenue ; thence northerly to its

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\* Thus reapportioned by order of court, Aug. 5, 1895.

junction with the centre line of Noble street ; thence westerly to its junction with the centre line of Franklin street ; thence northerly to its junction with the centre line of Kent street ; thence easterly to its junction with the centre line of Manhattan avenue ; thence southerly to its junction with the centre line of Greenpoint avenue ; thence easterly to its junction with the centre line of Oakland street ; thence southerly to its junction with the centre line of Calyer street ; thence easterly along the centre line of Calyer street to its junction with the centre line of Vail street ; thence along the centre line of Vail street to its point of junction with the boundary line separating the counties of Kings and Queens ; thence along said boundary line in all its directions to its junction with the boundary line of the county of Kings on the East river ; thence southerly along said boundary line to the place of beginning. Comprises part of the fourteenth ward and part of the seventeenth ward of the city of Brooklyn ; 45,631 inhabitants excluding aliens.

\* *Fifteenth district.*—Beginning at a point formed by the junction of the centre line of Rodney street with the centre line of Broadway, running thence southeasterly along Broadway to its intersection by the centre line of Flushing avenue ; thence easterly to its junction with the centre line of Flushing avenue ; thence easterly to its junction with the centre line of Bushwick avenue ; thence northerly along the centre line of Bushwick avenue or road, as the same was originally laid down on the commissioners' map of the town of Bushwick, to its point of junction with the centre line of Ten Eyck street ; thence westerly to its intersection by the centre line of Leonard street ; thence northerly to its junction with the centre line of Mauger street ; thence northerly along the centre line of Mauger street and South First street to its junction with the centre line of Hooper street ; thence northerly to its junction with the center line of Grand street ; thence easterly to its junction with the centre line of Union avenue ; thence northerly to its junction with the centre line of North Second street ; thence westerly to its junction with the centre line of Rodney street ; thence southerly to its junction with the centre line of Ainslie street ; thence westerly to its junction with the centre line of Marcy avenue ; thence northerly to its junction with the centre line of North Second street ; thence westerly to its junction with the centre line of Havemeyer street ; thence

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\* Thus reapportioned by order of court, Aug. 5, 1895.

## 242 POLITICAL DIVISIONS OF STATE, COUNTIES AND TOWNS.

southerly to its junction with the centre line of Grand street; thence easterly to its junction with the centre of Rodney street; thence southerly along the centre line of Rodney street to the place of beginning. The said fifteenth assembly district hereinbefore described comprises the sixteenth ward, part of the fifteenth ward, and part of the fourteenth ward of the city of Brooklyn; 45,759 inhabitants excluding aliens.

*Sixteenth district.*—Beginning at a point formed by the junction of the centre lines of Lafayette and Stuyvesant avenues; running thence easterly along the centre of Lafayette avenue to its intersection by the centre line of Broadway; thence southeasterly along the centre of Broadway to the boundary line between the city of Brooklyn and the former town of New Lots; thence southerly along said boundary line to its intersection by the centre line of Atlantic avenue; thence westerly to the centre of Schenectady avenue; thence northerly to the centre of Fulton street; thence easterly to the centre of Stuyvesant avenue; thence northerly to the place of beginning. Comprises the twenty-fifth ward and part of the twenty-third ward, defined by a line along the center of Stuyvesant and Schenectady avenues of the city of Brooklyn; 37,981 inhabitants excluding aliens.

*Seventeenth district.*—Beginning at a point formed by the junction of the center lines of Lafayette and Stuyvesant avenues; running thence southerly to the center of Bainbridge street; thence westerly to the center of Sumner avenue; thence northerly to the center of McDonough street; thence westerly to the center of Tompkins avenue; thence southerly to the center of Fulton street; thence westerly to the center of New York avenue; thence southerly to the center of Atlantic avenue; thence westerly to the center of Franklin avenue; thence northerly to the center of Breevoort place; thence easterly to the center of Bedford avenue; thence northerly to the center of Lafayette avenue; thence easterly along the center of Lafayette avenue to the place of beginning. Comprises the twenty-third ward, election districts one to twenty of the former twenty-third ward, and districts one, part of four, and all of fifth, sixth, seventh, fifteenth, sixteenth, seventeenth and eighteenth of the former twenty-fifth ward of the city of Brooklyn; 37,641 inhabitants excluding aliens.

*Eighteenth district.*—Beginning at a point formed by the junction of Franklin and Atlantic avenues; running thence easterly along the center of Atlantic avenue, to the center of New York

avenue; thence northerly to the center of Fulton street; thence easterly to the center of Tompkins avenue; thence northerly to the center of McDonough street; thence easterly to the center of Sumner avenue; thence southerly to the center of Bainbridge street; thence easterly to the center of Stuyvesant avenue; thence southerly to the center of Fulton street; thence westerly to the center of Schenectady avenue; thence southerly to the center of Atlantic avenue; thence easterly to the boundary line between the city of Brooklyn and the former town of New Lots; thence westerly along said boundary line to its point of junction with the boundary line of the former town of Flatbush; thence southerly along said boundary line to its junction with the boundary line of the town of Flatlands; thence northeasterly and again easterly and southerly in all its directions along the boundary line of the town of Flatlands; thence southerly and northerly along the boundary line separating the town of Flatlands and the former town of New Lots, continuing the said line in all its directions along the boundary line of the county of Kings formed by or on the waters of Jamaica bay and Atlantic ocean, to its meeting with the boundary line separating the former towns of Flatbush and Gravesend; thence along said boundary line in all its directions to the boundary line separating the former towns of Flatbush and New Utrecht; thence along said boundary line in all its directions to its junction with the boundary line separating the said former town of Flatbush from the city of Brooklyn; thence along said line in all its directions to its intersection by the center line of Franklin avenue; thence to the place of beginning. Comprises the twenty-fourth and twenty-ninth wards, the town of Flatlands and part of twenty-third ward of the city of Brooklyn; 37,504 inhabitants excluding aliens.

*Nineteenth district.*— Beginning at the center of the intersection of Richardson street and Meeker avenue; running thence in a northeasterly direction along the center of Meeker avenue to the boundary line between the county of Kings and the county of Queens; thence southerly in all its directions along said boundary line to its junction with the center line of Jefferson street; thence westerly to the center of Evergreen avenue; thence southerly to the center of Troutman street; thence northeasterly to the center of Central avenue; thence southeasterly to the center of Cedar street; thence westerly to the center of Bushwick avenue; thence southeasterly to the intersection of the center of Lafayette avenue;



thence westerly to the center of Broadway; thence northwesterly to the center of Flushing avenue; thence easterly to the intersection of Flushing and Bushwick avenues; thence in a northerly, northwesterly, northeasterly, and again northwesterly direction along the center of Bushwick avenue to the center of the intersection of Bushwick avenue and North Second street; thence westerly along the center of North Second street to Humboldt street; thence northerly along the center of Humboldt street to the center of the intersection of Humboldt and Richardson streets; thence northwesterly along the center of Richardson street to the place of beginning. Comprises the eighteenth ward and parts of the twenty-seventh and twenty-eighth wards of the city of Brooklyn; 39,538 inhabitants excluding aliens.

*Twentieth district.*— Beginning at a point formed by the junction of the center lines of Broadway and Cooper avenue; running thence northeasterly to the center of Evergreen avenue; thence northwesterly to the center of Hancock street; thence northeasterly to the center of Central avenue; thence northwesterly to the center of Linden street; thence northeasterly to the center of Knickerbocker avenue; thence southeasterly to the center of Putnam avenue; thence northeasterly to its junction with the boundary line of the county of Kings and the county of Queens; thence northerly to the center of Jefferson street; thence southwesterly to the center of Evergreen avenue; thence southeasterly to the center of Troutman street; thence northeasterly to the center of Central avenue; thence southeasterly to the center of Cedar street; thence southwesterly to the center of Bushwick avenue; thence southeasterly to the center of Lafayette avenue; thence southwesterly to the center of Broadway; thence southeasterly to the place of beginning. Comprises part of the twenty-eighth ward and part of the twenty-seventh ward in the city of Brooklyn; 38,836 inhabitants excluding aliens.

*Twenty-first district.*— Beginning at a point formed by the junction of the center lines of Broadway and Cooper avenue; running thence northeasterly to the center of Evergreen avenue; thence northwesterly to the center of Hancock street; thence northeasterly to the center of Central avenue; thence northwesterly to the center of Linden street; thence northeasterly to the center of Knickerbocker avenue; thence southeasterly to the center of Putnam avenue; thence along the center line of Putnam avenue to its point of junction with the boundary line between the county of

Kings and the county of Queens; running thence southeasterly along the said boundary line and again northeasterly along said boundary line, and again southerly along said boundary line, and again along the southerly boundary line of the former town of New Lots to its junction with the boundary line of the town of Flatlands; thence northerly, westerly and again northerly and westerly, and southwesterly, and again northerly to the junction of said boundary line with the boundary line of the former town of Flatbush; thence northeasterly along said boundary line to its intersection by the center line of Broadway; thence northwesterly along the center line of Broadway to the place of beginning. Comprises the twenty-sixth ward and part of twenty-eighth ward of the city of Brooklyn; 38,738 inhabitants excluding aliens.

LEWIS COUNTY — ONE DISTRICT.

LIVINGSTON COUNTY — ONE DISTRICT.

MADISON COUNTY — ONE DISTRICT.

MONROE COUNTY.

*First district.*— Towns of Brighton, Henrietta, Irondequoit, Mendon, Penfield, Perinton, Pittsford, Rush, Webster and sixteenth, seventeenth and eighteenth wards of the city of Rochester; 44,583 inhabitants excluding aliens.

*Second district.*— The fourth, sixth, seventh, eighth, twelfth, thirteenth and fourteenth wards of the city of Rochester; 45,414 inhabitants excluding aliens.

*Third district.*— The first, second, third, fifth, ninth, tenth and eleventh wards of the city of Rochester; 44,733 inhabitants excluding aliens.

*Fourth district.*— Towns of Chili, Clarkson, Gates, Greece, Hamlin, Ogden, Parma, Riga, Sweden and Wheatland and the fifteenth, nineteenth and twentieth wards of the city of Rochester; 45,730 inhabitants excluding aliens.

MONTGOMERY COUNTY — ONE DISTRICT.

NEW YORK COUNTY.

*First district.*— That portion of the tenth senate district within and bounded by a line beginning at the Hudson or North river and Canal street; running thence along Canal street to Hudson street, to Dominick street, to Varick street, to Broome street, to Sullivan street, to Spring street, to Broadway, to Fulton street, to

## 246 POLITICAL DIVISIONS OF STATE, COUNTIES AND TOWNS.

William street, to Wall street, to Broadway, to Whitehall street, to the East river and East and Hudson or North river, to the place of beginning, and also Governor's and Bedloe's island; also Ellis island; 39,740 inhabitants excluding aliens.

*Second district.*— That portion of the tenth senate district within and bounded by a line beginning at the East river and Whitehall street; running thence along Whitehall street to Broadway, to Wall street, to William street, to Fulton street, to Broadway, to Canal street, to the Bowery, to Division street, to Market street, to Monroe street, to Catharine street, to the East river, to the place of beginning; 39,785 inhabitants excluding aliens.

*Third district.*— That part of the thirteenth senate district within and bounded by a line beginning at the North or Hudson river and Canal street, to Hudson street, to Dominick street, to Varick street, to Broome street, to Sullivan street, to West Houston street, to Varick street, to Carmine street, to Sixth avenue, to West Eleventh street, to Greenwich avenue, to Perry street, to Waverly place, to Charles street, to West street, to place of beginning; 38,544 inhabitants excluding aliens.

*Fourth district.*— That portion of the tenth senate district within and bounded by a line beginning at the East river and Catharine street, and running thence along Catharine street to Monroe street, to Market street, to Division street, to Grand street, to Jackson street, to the East river, to the place of beginning; 40,427 inhabitants excluding aliens.

*Fifth district.*— That portion of the thirteenth senate district within and bounded by a line beginning at Sullivan street and Spring street, and along Spring street to Broadway, to East Fourth street, to Third avenue, to Fourteenth street, to Sixth avenue, to West Fifteenth street, to Seventh avenue, to West Nineteenth street, to Eighth avenue, along Eighth avenue to Greenwich avenue, to West Eleventh street, to Sixth avenue, to Carmine street, to Varick street, to West Houston street, to Sullivan street, to Spring street, to the place of beginning; 38,419 inhabitants excluding aliens.

*Sixth district.*— That portion of the eleventh senate district within and bounded by a line beginning at Canal street and Broadway, and running thence along Broadway to East Fourth street, to the Bowery, to Third avenue, to St. Mark's place or Eighth street, to Second avenue, to Second street, to First avenue, to Houston street, to Eldridge street, to Stanton street, to Chrystie

street, to Division street, to the Bowery, to Canal street, to the place of beginning; 34,410 inhabitants excluding aliens.

*Seventh district.*— That portion of the thirteenth senate district within and bounded by a line beginning at the North or Hudson river, along Charles street to Waverly place, to Perry street, to Greenwich avenue, to Eighth avenue, to West Twentieth street, along West Twentieth street to Hudson or North river, to place of beginning; 38,497 inhabitants excluding aliens.

*Eighth district.*— That portion of the eleventh senate district within and bounded by a line beginning at Division and Chrystie streets, and running thence along Chrystie street to Stanton street, to Eldridge street, to Houston street, to Ludlow street, to Broome street, to Norfolk street, to Division street, to the place of beginning; 38,781 inhabitants excluding aliens.

*Ninth district.*— That portion of the sixteenth senate district within and bounded by a line beginning at the Hudson or North river and West Twentieth street, and running thence along West Twentieth street to Eighth avenue, to West Nineteenth street, to Seventh avenue, to West Thirtieth street, to the Hudson or North river; 39,495 inhabitants excluding aliens.

*Tenth district.*— That portion of the eleventh senate district within and bounded by a line beginning at Second street and Second avenue, and running thence along Second avenue to St. Mark's place or Eighth street to Avenue A, to Seventh street, to Avenue B, to Clinton street, to Rivington street, to Norfolk street, to Broome street, to Ludlow street, to Houston street, to First avenue, to Second street, to the place of beginning; 39,108 inhabitants excluding aliens.

*Eleventh district.*— That portion of the sixteenth senate district within and bounded by a line beginning at Seventh avenue and West Thirteenth street, and running thence along Seventh avenue to West Thirty-seventh street, to Eighth avenue, to West Thirty-eighth street, to Tenth avenue, to West Thirty-sixth street, to Hudson or North river, to West Thirtieth street, to the place of beginning; 39,868 inhabitants excluding aliens.

*Twelfth district.*— That portion of the twelfth senate district within and bounded by a line beginning at the East river and Jackson street, and running thence along Jackson street to Grand street, to Division street, to Norfolk street, to Rivington street, to Cannon street, to Stanton street, to the East river, to the place of beginning; 41,871 inhabitants excluding aliens.

*Thirteenth district.*— That portion of the sixteenth senate district within and bounded by a line beginning at the Hudson or North river and West Thirty-sixth streets, and running thence along West Thirty-sixth street to Tenth avenue, to West Thirty-eighth street, to Eighth avenue, to West Thirty-seventh street, to Seventh avenue, to West Fortieth street, to Eighth avenue, to West Forty-third street, to Tenth avenue, to West Forty-sixth street, to the Hudson or North river, to the place of beginning; 39,554 inhabitants excluding aliens.

*Fourteenth district.*— That portion of the twelfth senate district within and bounded by a line beginning at the East river and East Eleventh street, and running thence along East Eleventh street to Avenue C, to Seventh street, to Avenue A, to St. Mark's place or Eighth street, to Third avenue, to Fourteenth street, to the East river, to the place of beginning; 40,697 inhabitants excluding aliens.

*Fifteenth district.*— That portion of the seventeenth senate district within and bounded by a line beginning at the Hudson or North river and West Forty-sixth street, and running thence along West Forty-sixth street to Tenth avenue, to West Forty-third street, to Eighth avenue, to West Fifty-third street, to Ninth avenue, to West Fiftieth street, to Tenth avenue, to West Forty-ninth street, to the Hudson or North river, to the place of beginning; 39,217 inhabitants excluding aliens.

*Sixteenth district.*— That portion of the twelfth senate district within and bounded by a line beginning at the East river and Stanton street, and running thence along Stanton street to Cannon street, to Rivington street, to Clinton street, to Avenue B, to Seventh street, to Avenue C, to East Eleventh street, to the East river, to the place of beginning; 41,264 inhabitants excluding aliens.

*Seventeenth district.*— That portion of the seventeenth senate district within and bounded by a line beginning at the Hudson or North river and West Forty-ninth street, and running thence along West Forty-ninth street to Tenth avenue, to West Fiftieth street, to Ninth avenue, to West Fifty-third street, to Eighth avenue, to West Sixty-first street, to Ninth or Columbus avenue, to West Sixtieth street, to the Hudson or North river, to the place of beginning; 39,086 inhabitants excluding aliens.

*Eighteenth district.*— That portion of the fourteenth senate district within and bounded by a line beginning at the East river

and East Fourteenth street, and running thence along East Fourteenth street to Irving place, to East Nineteenth street, to Third avenue, to East Twenty-third street, to Second avenue, to East Twenty-fifth street, to First avenue, to East Twenty-sixth street, to the East river, to the place of beginning; 40,051 inhabitants excluding aliens.

*Nineteenth district.*— That portion of the seventeenth senate district within and bounded by a line beginning at the Hudson or North river and West Sixtieth street, and running thence along West Sixtieth street to Ninth or Columbus avenue, to West Sixty-first street, to Eighth avenue, to West Eighty-first street, to Ninth or Columbus avenue, to West Eighty-sixth street, to Tenth or Amsterdam avenue, to West Eighty-ninth street, to the Hudson or North river, to the place of beginning; 39,120 inhabitants excluding aliens.

*Twentieth district.*— That portion of the fourteenth senate district within and bounded by a line beginning at the East river and East Twenty-sixth street, and running thence along East Twenty-sixth street to First avenue, to East Twenty-fifth street, to Second avenue, to East Twenty-third street, to Lexington avenue, to East Thirty-ninth street, to Third avenue, to East Thirty-seventh street, to Second avenue, to East Thirty-eighth street, to the East river, to the place of beginning; 40,242 inhabitants excluding aliens.

*Twenty-first district.*— That portion of the nineteenth senate district within and bounded by a line beginning at the Hudson or North river and West Eighty-ninth street, and running thence along West Eighty-ninth street to Tenth or Amsterdam avenue, to West Eighty-sixth street, to Ninth or Columbus avenue, to West Eighty-first street, to Eighth avenue, to Ninety-seventh street and the transverse road across Central Park at Ninety-seventh street, to Fifth avenue, to West One Hundred and Tenth street, to Seventh avenue, to West One Hundred and Twentieth street, to Western boulevard, to West One Hundred and Nineteenth street, to the Hudson or North river, to the place of beginning; 39,721 inhabitants excluding aliens.

*Twenty-second district.*— That portion of the fourteenth senate district within and bounded by a line beginning at the East river and East Thirty-eighth street, and running thence along East Thirty-eighth street to Second avenue, to East Thirty-seventh

street, to Third avenue, to East Thirty-ninth street, to Lexington avenue, to East Fifty-third street, to Third avenue, to East Fifty-second street, to the East river, to the place of beginning; 39,514 inhabitants excluding aliens.

*Twenty-third district.*— That portion of the nineteenth senate district within and bounded by a line beginning at the Hudson or North river and West One Hundred and Nineteenth street, and running thence along the Hudson or North river and Spuyten Duyvil creek around the northern end of Manhattan island; thence southerly along the Harlem river to the north end of Fifth avenue; thence along Fifth avenue to West One Hundred and Thirty-fourth street, to Eighth avenue, to West One Hundred and Twentieth street, to Western boulevard, to West One Hundred and Nineteenth street, to the place of beginning; 39,114 inhabitants excluding aliens.

*Twenty-fourth district.*— That portion of the eighteenth senate district within and bounded by a line beginning at the East river and East Fifty-second street, and running thence along East Fifty-second street to Third avenue, to East Fifty-third street, to Lexington avenue, to East Sixty-fourth street, to Third avenue, to East Sixty-fifth street, to the East river, to the place of beginning, and also Blackwell's island; 39,463 inhabitants excluding aliens.

*Twenty-fifth district.*— That portion of the fifteenth senate district within and bounded by a line beginning at West Fifteenth street and Seventh avenue, and running thence along Seventh avenue to West Thirty-sixth street, to Lexington avenue, to East Twenty-third street, to Third avenue, to East Nineteenth street, to Irving place, to East Fourteenth street, to Sixth avenue, to West Fourteenth street, to the place of beginning; 39,932 inhabitants excluding aliens.

*Twenty-sixth district.*— That portion of the eighteenth senate district within and bounded by a line beginning at the East river and East Sixty-fifth street, and running thence along East Sixty-fifth street to Third avenue, to East Sixty-fourth street, to Lexington avenue, to East Seventy-fifth street, to Third avenue, to East Seventy-sixth street, to the East river, to the place of beginning; 39,383 inhabitants excluding aliens.

*Twenty-seventh district.*— That portion of the fifteenth senate district within and bounded by a line beginning at West Thirty-sixth street and Seventh avenue, and running thence along Seventh avenue to West Fortieth street, to Eighth avenue, to West Fifty-

hird street, to Fifth avenue, to East Fifty-fourth street, to Lexington avenue, to East Thirty-sixth street, to West Thirty-sixth street, to the place of beginning; 40,258 inhabitants excluding aliens.

*Twenty-eighth district.*— That portion of the eighteenth senate district within and bounded by a line beginning at the East river and East Seventy-sixth street, and running thence along East Seventy-sixth street to Third avenue, to East Seventy-fifth street, to Lexington avenue, to East Eighty-fourth street, to Second avenue, to East Eighty-third street, to the East river, to the place of beginning; 39,727 inhabitants excluding aliens.

*Twenty-ninth district.*— That portion of the fifteenth senate district within and bounded by a line beginning at East Fifty-fourth street and Lexington avenue, and running thence along Lexington avenue to East Ninety-sixth street, to Fifth avenue, to East Ninety-seventh street and the transverse road across Central park at Ninety-seventh street, to Eighth avenue, to West Fifty-third street, to Fifth avenue, to East Fifty-fourth street, to the place of beginning; 39,738 inhabitants excluding aliens.

*Thirtieth district.*— That portion of the twentieth senate district within and bounded by a line beginning at the East river and East Eighty-third street, and running thence along East Eighty-third street to Second avenue, to East Eighty-fourth street, to Lexington avenue, to East Ninety-second street, to Third avenue, to East Ninety-fourth street, to the East river, to the place of beginning; 39,494 inhabitants excluding aliens.

*Thirty-first district.*— That portion of the nineteenth senate district within and bounded by a line beginning at West One Hundred and Tenth street and Seventh avenue, and running thence along Seventh avenue to West One Hundred and Twentieth street, to Eighth avenue, to West One Hundred and Thirty-fourth street, to Fifth avenue, to East One Hundred and Twenty-ninth street, to Fourth or Park avenue, to East One Hundred and Tenth street, to West One Hundred and Tenth street, to the place of beginning; 39,142 inhabitants excluding aliens.

*Thirty-second district.*— That portion of the twentieth senate district within and bounded by a line beginning at the East river and East Ninety-fourth street, and running thence along East Ninety-fourth street to Third avenue, to East Ninety-second street, to Lexington avenue, to East Ninety-sixth street, to Fifth avenue, to East One Hundred and Tenth street, to Madison avenue, to East One Hundred and Eighth street, to the Harlem river,



## 252 POLITICAL DIVISIONS OF STATE, COUNTIES AND TOWNS.

to the place of beginning, and also Ward's island; 39,384 inhabitants excluding aliens.

*Thirty-third district.*—That portion of the twentieth senate district within and bounded by a line beginning at the Harlem river and East One Hundred and Eighth street, and running thence along East One Hundred and Eighth street to Madison avenue, to East One Hundred and Tenth street, to Fourth or Park avenue, to East One Hundred and Nineteenth street, to the Harlem river, to the place of beginning, and also Randall's island; 38,751 inhabitants excluding aliens.

*Thirty-fourth district.*—That portion of the twenty-first senate district within and bounded by a line beginning at the Harlem river and East One Hundred and Nineteenth street, and running thence along East One Hundred and Nineteenth street to Fourth or Park avenue, to East One Hundred and Twenty-ninth street, to Fifth avenue, to the Harlem river, to the place of beginning, together with that portion of the twenty-third ward of the city of New York within and bounded by a line beginning at the Harlem river and East One Hundred and Forty-ninth street, and running thence along East One Hundred and Forty-ninth street to Railroad avenue, to East One Hundred and Forty-sixth street, to Third avenue, to East One Hundred and Forty-ninth street, to Bungay street, to the East river or Long Island sound, to Bronx Kill, to Harlem river, to the place of beginning, and also North Brothers' island; 51,322 inhabitants excluding aliens.

*Thirty-fifth district.*—That portion of the twenty-third and twenty-fourth wards of the city and county of New York lying within the twenty-first senate district, not hereinbefore bounded and described; 50,642 inhabitants excluding aliens.

### NIAGARA COUNTY.

*First district.*—City of Lockport and towns of Lockport, Cambria, Pendleton, Royalton and Wheatfield; 34,247 inhabitants excluding aliens.

*Second district.*—City of Niagara Falls, and towns of Niagara, Lewiston, Porter, Wilson, Newfane, Somerset and Hartland; 24,892 inhabitants excluding aliens.

### ONEIDA COUNTY.

*First district.*—Town and city of Utica; 42,820 inhabitants, excluding aliens.

*Second district.*—Towns of Augusta, Bridgewater, Kirkland, Marshall, New Hartford, Paris, Sangerfield, Vernon, Verona, Westmoreland and Whitestone; 34,158 inhabitants excluding aliens.

*Third district.*—Towns of Annsville, Ava, Boonville, Camden, Deerfield, Florence, Floyd, Forestport, Lee, Marcy, Remsen, town and city of Rome, Steuben, Trenton, Vienna and Western; 40,056 inhabitants excluding aliens.

## ONONDAGA COUNTY.

*First district.*—Towns of Clay, Lysander, Van Buren, Elbridge, Camillus, Geddes, Skaneateles, Marcellus, Onondaga, Otisco, Spafford, Tully and La Fayette; 36,002 inhabitants excluding aliens.

*Second district.*—Towns of Cicero, Salina, De Witt, Manlius, Pompey and Fabius and the first, second and sixteenth wards of the city of Syracuse; 35,602 inhabitants excluding aliens.

*Third district.*—The third, fourth, seventh, eighth, twelfth, fourteenth and fifteenth wards of the city of Syracuse; 24,829 inhabitants excluding aliens.

*Fourth district.*—The fifth, sixth, ninth, tenth, eleventh, thirteenth, seventeenth, eighteenth and nineteenth wards of the city of Syracuse; 35,291 inhabitants excluding aliens.

## ONTARIO COUNTY — ONE DISTRICT.

## ORANGE COUNTY.

*First district.*—City of Newburgh, Cornwall, New Windsor, Highlands, Montgomery, Monroe, Blooming Grove, Crawford and Hamptonburg; 47,082 inhabitants excluding aliens.

*Second district.*—City of Middletown, towns of Deerpark, Greenville, Mount Hope, Waywayanda, Minisink, Goshen, Wallkill, Chester, Warwick, Woodbury and Tuxedo; 46,109 inhabitants excluding aliens.

## ORLEANS COUNTY — ONE DISTRICT.

## OSWEGO COUNTY.

*First district.*—First, third, fifth and seventh wards of the city of Oswego, towns of Oswego, Hannibal, Granby, Volney, Schroepel, Palermo, Hastings and West Monroe; 35,440 inhabitants excluding aliens.

## 254 POLITICAL DIVISIONS OF STATE, COUNTIES AND TOWNS.

*Second district.*—Second, fourth, sixth and eighth wards of the city of Oswego, towns of Scriba, New Haven, Mexico, Richland, Sandy Creek, Boylston, Redfield, Orwell, Albion, Williamstown, Parish, Amboy and Constantia; 34,583 inhabitants excluding aliens.

OTSEGO COUNTY — ONE DISTRICT.

PUTNAM COUNTY — ONE DISTRICT.

### QUEENS COUNTY.

*First district.*—City of Long Island City and town of Newtown; 46,195 inhabitants excluding aliens.

*Second district.*—Towns of Flushing and Jamaica; 34,030 inhabitants excluding aliens.

*Third district.*—Towns of Hempstead, Oyster Bay and North Hempstead; 43,590 inhabitants excluding aliens.

### RENSSELAER COUNTY.

*First district.*—Towns of Lansingburgh, Schaghticoke, Pittstown and Hoosick, and the tenth and thirteenth wards of the city of Troy; 38,610 inhabitants excluding aliens.

*Second district.*—The first, second, third, fourth, sixth, seventh, eighth, ninth, eleventh and twelfth wards of the city of Troy; 41,903 inhabitants excluding aliens.

*Third district.*—Towns of Berlin, Brunswick, Grafton, Petersburg, Poestenkill, Sandlake, Stephentown, Nassau, North Greenbush, East Greenbush, Greenbush, Schodack, and the fifth ward of the city of Troy; 39,810 inhabitants excluding aliens.

RICHMOND COUNTY — ONE DISTRICT.

ROCKLAND COUNTY — ONE DISTRICT.

### ST. LAWRENCE COUNTY.

*First district.*—Town of Oswegatchie, including the city of Ogdensburg, and the four wards thereof, and the towns of Waddington, Madrid, Lisbon, DePeyster, DeKalb, Morristown, Macomb, Hammond, Rossie, Gouverneur, Fowler, Edwards, Pitcairn and Fine; 40,682 inhabitants excluding aliens.

*Second district.*—Towns of Canton, Potsdam, Stockholm, Norfolk, Louisville, Massena, Brasher, Lawrence, Parishville, Hopkinton,

Colton, Clifton, Clare, Pierrepont, Russell and Hermon; 39,996 inhabitants excluding aliens.

SARATOGA COUNTY — ONE DISTRICT.

SCHENECTADY COUNTY — ONE DISTRICT.

SCHOHARIE COUNTY — ONE DISTRICT.

SCHUYLER COUNTY — ONE DISTRICT.

SENECA COUNTY — ONE DISTRICT.

STEUBEN COUNTY.

*First district.*— Towns of Addison, Bath, Bradford, Campbell, Caton, Corning, Erwin, Hornby, Lindley, Prattsburgh, Pultney, Thurston, Tuscarora, Urbana, Wayne and Wheeler, and the city of Corning; 40,157 inhabitants excluding aliens.

*Second district.*— Towns of Avoca, Cameron, Canisteo, Dansville, Fremont, Greenwood, Hartsville, Cohocton, Hornellsville, Howard, Jasper, Rathbone, Troupsburgh, Wayland, West Union and Woodhull, and the city of Hornellsville; 41,208 inhabitants excluding aliens.

SUFFOLK COUNTY.

*First district.*— Towns of Brookhaven, Easthampton, Riverhead, Shelter Island, Southold and Southampton.

*Second district.*— Towns of Babylon, Islip, Huntington and Smithtown.

SULLIVAN COUNTY — ONE DISTRICT.

TIOGA COUNTY — ONE DISTRICT.

TOMPKINS COUNTY — ONE DISTRICT.

ULSTER COUNTY.

*First district.*— City of Kingston, towns of Kingston, Hurley, Saugerties, Shandaken, Ulster and Woodstock; 42,609 inhabitants excluding aliens.

*Second district.*— Towns of Denning, Esopus, Gardiner, Hardenburgh, Lloyd, Marletown, Marlborough, New Paltz, Olive, Plattekill, Rochester, Rosendale, Shawangunk and Wawarsing; 44,911 inhabitants excluding aliens.

WARREN COUNTY — ONE DISTRICT.

WASHINGTON COUNTY — ONE DISTRICT.

WAYNE COUNTY — ONE DISTRICT.

## 256 POLITICAL DIVISIONS OF STATE, COUNTIES AND TOWNS.

### WESTCHESTER COUNTY.

*First district.*— Towns of Yonkers, Greenburg, Mount Pleasant and East Chester; 49,919 inhabitants excluding aliens.

*Second district.*— Towns of Mount Vernon, Pelham, New Rochelle, Mamaroneck, Rye, White Plains, Scarsdale, North Castle and Harrison; 47,094 inhabitants excluding aliens.

*Third district.*— Towns of Cortlandt, Bedford, Lewisboro, New Castle, North Salem, Ossining, Poundridge, Somers and Yorktown; 36,344 inhabitants excluding aliens.

### WYOMING COUNTY — ONE DISTRICT.

### YATES COUNTY — ONE DISTRICT.

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## CONGRESSIONAL DISTRICTS OF THE STATE OF NEW YORK.

[AS ESTABLISHED BY CHAP. 295, LAWS OF 1892.\*]

*First district.*— The counties of Suffolk and Queens.

*Second district.*— The first, second, fifth, sixth, seventh, eleventh and twentieth wards of the city of Brooklyn.

*Third district.*— The third, fourth, ninth, tenth, twenty-second and twenty-third wards of the city of Brooklyn and the town of Flatbush.

*Fourth district.*— The eighth, twelfth, twenty-fourth, twenty-fifth and twenty-sixth wards of the city of Brooklyn and the towns of Flatlands, Gravesend and New Utrecht.

*Fifth district.*— The eighteenth, nineteenth, twenty-first, twenty-seventh and twenty-eighth wards of the city of Brooklyn.

*Sixth district.*— The Thirteenth, fourteenth, fifteenth, sixteenth and seventeenth wards of the city of Brooklyn.

*Seventh district.*— The county of Richmond and the first and fifth assembly districts of the county of New York.

*Eighth district.*— The second, third and seventh assembly districts of the county of New York.

*Ninth district.*— The fourth, sixth and eighth assembly districts of the county of New York.

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\* The words "assembly district," and the word "ward" or "wards" when used in this act, are understood to refer to the assembly districts of the ward as constituted at the time of the passage of chapter 295, Laws of 1892.

*Tenth district.*—The ninth, thirteenth and fifteenth assembly districts of the county of New York.

*Eleventh district.*—The tenth, twelfth and fourteenth assembly districts of the county of New York.

*Twelfth district.*—The eleventh, sixteenth and eighteenth assembly districts of the county of New York.

*Thirteenth district.*—The seventeenth and twentieth assembly districts of the county of New York, and that portion of the twenty-first assembly district below the center of Fifty-ninth street in the city of New York.

*Fourteenth district.*—The nineteenth assembly district of the county of New York, that portion of the twenty-first assembly district between the center of Fifty-ninth street and the center of Seventy-ninth street, and that portion of the twenty-second assembly district below the center of Seventy-ninth street in the city of New York.

*Fifteenth district.*—That portion of the twenty-first assembly district between the center of Seventy-ninth street and the center of Eighty-sixth street; that portion of the twenty-second district above the center of Seventy-ninth street in the city of New York, and the twenty-third assembly district of the county of New York.

*Sixteenth district.*—The twenty-fourth assembly district of the county of New York and the county of Westchester.

*Seventeenth district.*—The counties of Orange, Rockland and Sullivan.

*Eighteenth district.*—The counties of Dutchess, Putnam and Ulster.

*Nineteenth district.*—The counties of Columbia and Rensselaer.

*Twentieth district.*—The county of Albany.

*Twenty-first district.*—The counties of Greene, Montgomery, Otsego, Schenectady, Schoharie.

*Twenty-second district.*—The counties of Fulton and Hamilton, St. Lawrence and Saratoga.

*Twenty-third district.*—The counties of Clinton, Essex, Franklin, Warren and Washington.

*Twenty-fourth district.*—The counties of Jefferson, Lewis and Oswego.

*Twenty-fifth district.*—The counties of Herkimer and Oneida.

*Twenty-sixth district.*—The counties of Broome, Chenango, Delaware, Tioga and Tompkins.

## 258 POLITICAL DIVISIONS OF STATE, COUNTIES AND TOWNS.

*Twenty-seventh district.*—The counties of Madison and Onondaga.

*Twenty-eighth district.*—The counties of Cayuga, Cortland, Ontario, Wayne and Yates.

*Twenty-ninth district.*—The counties of Chemung, Schuyler, Seneca and Steuben.

*Thirtieth district.*—The counties of Genesee, Livingston, Niagara, Orleans and Wyoming.

*Thirty-first district.*—The county of Monroe.

*Thirty-second district.*—The first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, nineteenth and twentieth wards of the city of Buffalo.

*Thirty-third district.*—The fifteenth, sixteenth, seventeenth, eighteenth, twenty-first, twenty-second, twenty-third, twenty-fourth and twenty-fifth wards of the city of Buffalo, and the fourth and fifth assembly districts of the county of Erie.

*Thirty-fourth district.*—The counties of Allegany, Cattaraugus and Chautauqua.

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## JUDICIAL DISTRICTS.

The state is divided into eight judicial districts, numbered and composed of the territory, respectively, as follows:

*First.*—The city of New York.

*Second.*—The counties of Richmond, Suffolk, Queens, Kings, Westchester, Orange, Rockland, Putnam and Dutchess.

*Third.*—The counties of Columbia, Sullivan, Ulster, Greene, Albany, Schoharie and Rensselaer.

*Fourth.*—The counties of Warren, Saratoga, Washington, Essex, Franklin, Saint Lawrence, Clinton, Montgomery, Hamilton, Fulton and Schenectady.

*Fifth.*—The counties of Onondaga, Oswego, Oneida, Herkimer, Jefferson and Lewis.

*Sixth.*—The counties of Otsego, Delaware, Madison, Chenango, Broome, Tioga, Chemung, Tompkins, Cortland and Schuyler.

*Seventh.*—The counties of Livingston, Wayne, Seneca, Yates, Ontario, Steuben, Monroe and Cayuga.

*Eighth.*—The counties of Erie, Chautauqua, Cattaraugus, Orleans, Niagara, Genesee, Allegany and Wyoming.

**SCHOOL COMMISSIONER DISTRICTS.**

The districts as organized in the different counties on the 1st day of January, 1889, are as follows:

**ALBANY COUNTY.**

*First district.*—Towns of Bethlehem, Coeymans and New Scotland.

*Second district.*—Towns of Berne, Rensselaerville and Westerlo.

*Third district.*—Towns of Guilderland, Knox and Watervliet.

The city of Albany is organized under a special school act.

The city of Cohoes is organized under a special school act.

**ALLEGANY COUNTY.**

*First district.*—Towns of Allen, Almond, Angelica, Belfast, Birdsall, Burns, Caneadea, Centreville, Granger, Grove, Hume, New Hudson, Rushford and West Almond.

*Second district.*—Towns of Alfred, Alma, Amity, Andover, Boliver, Clarksville, Cuba, Friendship, Genesee, Independence, Scio, Ward, Wellsville, Willing and Wirt.

**BROOME COUNTY.**

*First district.*—Towns of Chenango, Colesville Conklin, Fenton, Kirkwood, Sanford and Windsor.

*Second district.*—Towns of Barker, Binghamton, Lisle, Maine, Nanticoke, Triangle, Union and Vestel.

The city of Binghamton is organized under a special school act.

**CATTARAUGUS COUNTY.**

*First district.*—City of Olean, and the towns of Allegany, Ashford, Farmersville, Franklinville, Freedom, Hinsdale, Humphrey, Ischua, Lyndon, Machias, Olean, Portville and Yorkshire.

*Second district.*—Towns of Carrollton, Coldspring, Conewango, Ellicottville, Dayton, East Otto, Elko, Great Valley, Leon, Little Valley, Mansfield, Napoli, New Albion, Otto, Perrysburgh, Persia, Randolph, Red House, Salamanca and South Valley.

**CAYUGA COUNTY.**

*First district.*—Towns of Brutus, Cato, Conquest, Ira, Mentz, Montezuma, Sennett, Sterling, Throop and Victory.



## 260 POLITICAL DIVISIONS OF STATE, COUNTIES AND TOWNS.

*Second district.*— Towns of Aurelius, Fleming, Genoa, Ledyard, Locke, Moravia, Niles, Owasco, Scipo, Sempronius, Summer Hill, Springport and Venice.

The city of Auburn is organized under a special school act.

### CHAUTAUQUA COUNTY.

*First district.*— Towns of Busti, Chautauqua, Clymer, French Creek, Harmony, Mina and Sherman.

*Second district.*— Towns of Arkwright, Hanover, Pomfret, Portland, Ripley, Sheridan, Villenova and West Field.

*Third district.*— Towns of Carroll, Charlotte, Cherry Creek, Ellery, Ellicott, Ellington, Gerry, Kiantone, Poland and Stockton.

The city of Dunkirk is organized under a special school act.

The city of Jamestown is organized under a special school act.

### CHEMUNG COUNTY.

Comprises a single district.

The city of Elmira is organized under a special school act.

### CHENANGO COUNTY.

*First district.*— Towns of Columbus, Lincklaen, New Berlin, North Norwich, Norwich, Otselic, Pharsalia, Pitcher, Plymouth, Sherburne and Smyrna.

*Second district.*— Towns of Afton, Bainbridge, Coventry, Greene, German, Guilford, McDonough, Oxford, Preston and Smithville.

### CLINTON COUNTY.

*First district.*— Towns of Ausable, Black Brook, Dannemora, Peru, Plattsburgh, Saranac and Schuyler Falls.

*Second district.*— Towns of Altoona, Beekmantown, Champlain, Chazy, Clinton, Ellenburgh and Mooers.

### COLUMBIA COUNTY.

*First district.*— Towns of Ancram, Clayerack, Clermont, Copake, Gallatin, Germantown, Greenport, Livingston and Taghkanic.

*Second district.*— Towns of Australitz, Canaan, Chatham, Ghent, Hillsdale, Kinderhook, New Lebanon, Stockport and Stuyvesant.

The city of Hudson is organized under a special school act.

### CORTLAND COUNTY.

*First district.*— Towns of Cincinnatus, Cortlandville, Freetown, Harford, Lapeer, Marathon, Virgil and Willett.

*Second district.*— Towns of Cuyler, Homer, Preble, Scott, Solon, Taylor and Truxton.

## DELAWARE COUNTY.

*First district.*— Towns of Colchester, Deposit, Franklin, Hamden, Hancock, Masonville, Sydney, Tompkins and Walton.

*Second district.*— Towns of Andes, Bovina, Davenport, Delhi, Harpersfield, Kortright, Meredith, Middletown, Roxbury and Stamford.

## DUTCHESS COUNTY.

*First district.*— Towns of Amenia, Beekman, Dover, East Fishkill, Fishkill, LaGrange, Northeast, Pawling, Pine Plains, Stanford, Union Vale, Wappinger and Washington.

*Second district.*— Towns of Clinton, Hyde Park, Milan, Pleasant Valley, Poughkeepsie, Redhook and Rhinebeck.

The city of Poughkeepsie is organized under a special school act.

## ERIE COUNTY.

*First district.*— Towns of Alden, Amherst, Cheektowaga, Clarence, Grand Island, Lancaster, Newstead and Tonawanda.

*Second district.*— Towns of Aurora, East Hamburg, Eden, Elma, Evans, Hamburg, Marilla, Wales and West Seneca.

*Third district.*— Towns of Boston, Brant, Colden, Concord, Collins, Holland, North Collins and Sardinia.

The city of Buffalo is organized under a special school act.

## ESSEX COUNTY.

*First district.*— Towns of Chesterfield, Elizabethtown, Essex, Jay, Keene, Lewis, North Elba, St. Armand, Willsborough and Wilmington.

*Second district.*— Towns of Crown Point, Minerva, Moriah, Newcomb, North Hudson, Schroon, Ticonderoga and Westport.

## FRANKLIN COUNTY.

*First district.*— Towns of Bellmont, Brighton, Burke, Chateaugay, Duane, Franklin, Harrietstown and Malone.

*Second district.*— Towns of Altamont, Bangor, Bombay, Brandon, Constable, Dickinson, Fort Covington, Moria, Waverly and Westville.

## FULTON COUNTY.

Comprises a single district, excluding Gloversville.

The city of Gloversville is organized under a special school act.

## 262 POLITICAL DIVISIONS OF STATE, COUNTIES AND TOWNS.

### GENESEE COUNTY.

Comprises a single district.

### GREENE COUNTY.

*First district.*—Towns of Athens, Cairo, Catskill, Halcott, Hunter, Jewett and Lexington.

*Second district.*—Towns of Ashland, Cossackie, Durham, Greenville, New Baltimore, Prattsville and Windham.

### HAMILTON COUNTY.

Comprises a single district.

### HERKIMER COUNTY.

*First district.*—Towns of Fairfield, Herkimer, Little Falls, Manheim, Newport, Norway, Ohio, Russia, Salisbury and Wilmurt.

*Second district.*—Towns of Columbia, Danube, Frankfort, German Flats, Litchfield, Schuyler, Stark, Warren and Winfield.

### JEFFERSON COUNTY.

*First district.*—Towns of Adams, Brownville, Ellisburgh, Henderson, Hounsfield, Lorraine, Rodman and Worth.

*Second district.*—Towns of Antwerp, Champion, Le Ray, Philadelphia, Rutland, Watertown and Wilna.

*Third district.*—Towns of Alexandria, Cape Vincent, Clayton, Lyme, Orleans, Pamela and Theresa.

The city of Watertown is organized under a special school act.

### KINGS COUNTY.

Comprises a single district, excluding the city of Brooklyn.

The city of Brooklyn is organized under a special school act.

### LEWIS COUNTY.

*First district.*—Towns of Greig, High Market, Lewis, Leyden, Lyonsdale, Martinsburgh, Osceola, Turin and West Turin.

*Second district.*—Towns of Croghan, Denmark, Diana, Harrisburgh, Lowville, Montague, New Bremen, Pinckney and Watson.

### LIVINGSTON COUNTY.

*First district.*—Towns of Avon, Caledonia, Conesus, Geneseo, Groveland, Leicester, Lima, Livonia and York.

*Second district.*—Towns of Mount Morris, North Dansville, Nunda, Ossian, Portage, Sparta, Springwater and West Sparta.

## MADISON COUNTY.

*first district.*—Towns of Brookfield, De Ruyter, Eaton, Georgeon, Hamilton, Lebanon, Madison and Nelson.

*second district.*—Towns of Cazenovia, Fenner, Lenox, Smith, Stockbridge and Sullivan.

## MONROE COUNTY.

*first district.*—Towns of Brighton, Henrietta, Irondequoit, Madison, Penfield, Perrinton, Pittsford, Rush and Webster.

*second district.*—Towns of Clarkson, Chili, Gates, Greece, Ham-Ogden, Parma, Riga, Sweden and Wheatland.

The city of Rochester is organized under a special school act.

## MONTGOMERY COUNTY.

Comprises a single district.

## NEW YORK.

New York city is organized under a special school act.

## NIAGARA COUNTY.

*first district.*—Towns of Cambria, Lockport, Pendleton, Royalton and Wheatfield.

*second district.*—Towns of Hartland, Lewiston, Newfane, Niagara, Tonawanda, Somerset and Wilson.

The city of Lockport is organized under a special school act.

The city of Niagara Falls is organized under a special school act.

## ONEIDA COUNTY.

*first district.*—Towns of Deerfield, Floyd, Marcy, New Hartford and Whitestown.

*second district.*—Towns of Augusta, Bridgewater, Kirkland, Marshall, Paris, Sangerfield, Vernon and Westmoreland.

*third district.*—Towns of Camden, Florence, Verona and Westmoreland.

*fourth district.*—Towns of Annsville, Ava, Boonville, Forestburg, Lee, Remsen, Steuben, Trenton and Western.

The city of Utica is organized under a special school act.

The city of Rome is organized under a special school act.

## ONONDAGA COUNTY.

*first district.*—Towns of Camillus, Clay, Elbridge, Lysander, Manlius and Van Buren.

264 POLITICAL DIVISIONS OF STATE, COUNTIES AND TOWNS.

*Second district.*— Towns of Geddes, Marcellus, Onondaga, Otisco, Skaneateles, Spafford and Tully.

*Third district.*— Towns of Cicero, De Witt, Fabius, Lafayette, Manlius and Pompey.

The city of Syracuse is organized under a special school act.

ONTARIO COUNTY.

*First district.*— Towns of Farmington, Geneva, Gorham, Hope-well, Manchester, Phelps and Seneca.

*Second district.*— Towns of Bristol, Canadice, Canandaigua, East Bloomfield, Naples, Richmond, South Bristol, Victor and West Bloomfield.

ORANGE COUNTY.

*First district.*— Towns of Blooming Grove, Cornwall, Crawford, Highlands, Hamptonburgh, Montgomery, Monroe, Newburgh and New Windsor, in the county of Orange, are hereby established as the first school commissioners' district of said county.

*Second district.*— Towns of Chester, Deerpark, Greenville, Goshen, Mount Hope, Minisink, Tuxedo, Walkill, Warwick, Wawayanda and Woodbury, are hereby established as the second school commissioners' district of said county.

The city of Newburgh is organized under a special school act.

The city of Middletown is organized under a special school act.

ORLEANS COUNTY.

Comprises a single district.

OSWEGO COUNTY.

*First district.*— Towns of Granby, Hannibal, New Haven, Oswego, Scriba and Volney.

*Second district.*— Towns of Amboy, Constantia, Hastings, Palermo, Parish, Schroepfel and West Monroe.

*Third district.*— Towns of Albion, Boylston, Mexico, Orwell, Redfield, Richland, Sandy Creek and Williamstown.

The city of Oswego is organized under a special school act.

OTSEGO COUNTY.

*First district.*— Towns of Cherry Valley, Decatur, Exeter, Maryland, Middlefield, Otsego, Plainfield, Richfield, Roseboom, Springfield, Westford and Worcester.

*Second district.*—Towns of Burlington, Butternuts, Edmeston, Hartwick, Laurens, Milford, Morris, New Lisbon, Oneonta, Otego, Pittsfield and Unadilla.

## PUTNAM COUNTY.

Comprises a single district.

## QUEENS COUNTY.

*First district.*—Towns of Flushing, North Hempstead and Oyster Bay.

*Second district.*—Towns of Hempstead, Jamaica and Newtown.

The city of Long Island City is organized under a special school act.

## RENSSELAER COUNTY.

*First district.*—Towns of Berlin, Grafton, Hoosick, Lansingburgh, Petersburg, Pittstown and Schaghticoke.

*Second district.*—Towns of Brunswick, East Greenbush, Greenbush, Nassau, North Greenbush, Poestenkill, Sandlake, Schodack and Stephentown.

The city of Troy is organized under a special school act.

## RICHMOND COUNTY.

Comprises a single district.

## ROCKLAND COUNTY.

Comprises a single district.

## ST. LAWRENCE COUNTY.

*First district.*—Towns of DeKalb, DePeyster, Fine, Fowler, Gouverneur, Hammond, Macomb, Morristown, Oswegatchie, Pitcairn and Rossie.

*Second district.*—Towns of Canton, Clare, Clifton, Colton, Edwards, Hermon, Lisbon, Madrid, Norfolk, Pierrepont, Russell and Waddington.

*Third district.*—Towns of Brasher, Hopkinton, Lawrence, Louisville, Massena, Parishville, Potsdam and Stockholm.

The city of Ogdensburgh is organized under a special school act.

## SARATOGA COUNTY.

*First district.*—Towns of Ballston, Charlton, Clifton Park, Galway, Halfmoon, Malta, Milton, Providence, Stillwater and Waterford.

*Second district.*—Towns of Corinth, Day, Edinburgh, Greenfield, Hadley, Moreau, Northumberland, Saratoga, Saratoga Springs and Wilton.

**266 POLITICAL DIVISIONS OF STATE, COUNTIES AND TOWNS.**

**SCHENECTADY COUNTY.**

Towns, exclusive of city, compose one district.

The city of Schenectady is organized under a special school act.

**SCHOHARIE COUNTY.**

*First district.*—Towns of Broome, Blenheim, Conesville, Esperance, Gilboa, Middleburgh, Schoharie and Wright.

*Second district.*—Towns of Carlisle, Cobleskill, Fulton, Jefferson, Richmondville, Seward, Sharon and Summit.

**SCHUYLER COUNTY.**

Comprises a single district.

**SENECA COUNTY.**

Comprises a single district.

**STEUBEN COUNTY.**

*First district.*—Towns of Avoca, Bath, Bradford, Campbell, Cohocton, Prattsburgh, Pultney, Urbana, Wayland, Wayne and Wheeler.

*Second district.*—Towns of Addison, Cameron, Canton, Corning, Erwin, Hornby, Lindley, Rathbone, Thurston, Tuscarora and Woodhull.

*Third district.*—Towns of Dansville, Fremont, Howard, Canisteo, Greenwood, Hartsville, Hornellsville, Jasper, Troupsburgh and West Union.

**SUFFOLK COUNTY.**

*First district.*—Towns of Easthampton, Riverhead, Southampton, Southold and Shelter Island.

*Second district.*—Towns of Babylon, Brookhaven, Huntington, Islip and Smithtown.

**SULLIVAN COUNTY.**

*First district.*—Towns of Bethel, Cohocton, Delaware, Forestburgh, Highland, Lumberland, Mamakating, Thompson and Tusten.

*Second district.*—Towns of Callicoon, Fallsburgh, Fremont, Liberty, Neversink and Rockland.

**TIOGA COUNTY.**

Comprises a single district.

**TOMPKINS COUNTY.**

*First district.*—Towns of Danby, Enfield, Ithaca, Newfield and Ulysses.

*Second district.*—Towns of Caroline, Dryden, Groton and Lansing.

The city of Ithaca is organized under a special school act.

#### ULSTER COUNTY.

*First district.*—Towns of Hurley, Kingston, Kingston City, Saugerties and Ulster.

*Second district.*—Towns of Esopus, Gardner, Lloyd, Marbletown, Marlborough, New Paltz, Plattekill, Rosendale and Shawangunk.

*Third district.*—Towns of Denning, Hardenburgh, Olive, Rochester, Shandakin, Wawarsing and Woodstock.

#### WARREN COUNTY.

Comprises a single district.

#### WASHINGTON COUNTY.

*First district.*—Towns of Argyle, Cambridge, Easton, Fort Edward, Greenwich, Jackson, Salem and White Creek.

*Second district.*—Towns of Dresden, Fort Ann, Granville, Hampton, Hartford, Hebron, Kingsbury, Putnam and Whitehall.

#### WAYNE COUNTY.

*First district.*—Towns of Butler, Galen, Huron, Lyons, Rose, Savannah, Sodus and Wolcott.

*Second district.*—Towns of Arcadia, Macedon, Marion, Ontario, Palmyra, Walworth and Williamson.

#### WESTCHESTER COUNTY.

*First district.*—Towns of East Chester, Mamaroneck, New Rochelle, Pelham, Rye, Scarsdale and Westchester.

*Second district.*—Towns of Greenburgh, Harrison, Mount Pleasant, North Castle, Ossining and White Plains.

*Third district.*—Towns of Bedford, Cortlandt, Lewisboro, New Castle, North Salem, Poundridge, Somers and Yorktown.

The city of Yonkers is organized under a special school act.

#### WYOMING COUNTY.

*First district.*—Towns of Attica, Bennington, Covington, Middlebury, Orangeville, Perry, Sheldon and Warsaw.

*Second district.*—Towns of Arcade, Castile, Eagle, Genesee Falls, Gainesville, Java, Pike and Wethersfield.

#### YATES COUNTY.

Comprises a single district.



# VOTERS,

## THEIR QUALIFICATIONS, PRIVILEGES AND DISABILITIES.

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**Vote, right to, not to be denied.**—“The rights of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color or previous condition of servitude. The congress shall have power to enforce this article by appropriate legislation.” (§§ 1, 2, art. 15, *amendment to United States Constitution.*)

**Vote, who entitled to.**—“Every male citizen of the age of twenty-one years, who shall have been a citizen for ninety days and an inhabitant of this state one year next preceding an election, and for the last four months a resident of the county, and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elected by the people, and upon all questions which may be submitted to the vote of the people, provided that in time of war no elector in the actual military service of the state, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the legislature shall have power to provide the manner in which, and the time and place at which, such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.” (§ 1, art. 2, *State Constitution.*)

**The right to vote** secured to a citizen by the constitution must be exercised in the manner and subject to the regulations lawfully prescribed by the legislature in respect to the time when and the method by which his will is expressed, and in order to make his will and intention effectual at the election he must comply with, at least, all the substantial requirements of law. (*People ex rel. Nichols v. Board of Canvassers*, 129 N. Y. 401)

**A minor who has been convicted** of a felony and has served out his time during his minority is not qualified to vote upon coming of age. (*Hamilton v. People*, 57 Barb. 625.)

**A female** is a person not duly qualified to vote under the laws of this state and is liable to punishment for voting as provided by the Penal Code. (*People v. Barber*, 48 Hun, 193.)

**Women have no right to vote** for school commissioners, the act of 1892, which gives them such right, being unconstitutional. (*Matter of Gage*, 141 N. Y. 112.)

**Right of deserters to vote.**—“Deserters from the military and naval service have a right to vote unless convicted thereof by a competent court.” (*Opinion of Attorney-General*.)

**Right to vote while engaged in voting at close of polls.**—“A voter who has received his ballots and is properly engaged in the preparation of the same at the time of the closing of the polls is entitled to vote.” (*Opinion of Attorney-General*.)

“A person otherwise qualified whose twenty-first birthday is on the day succeeding election is entitled to vote.” (*Opinion of Attorney-General*.)

**Disfranchisement of voter by irregular acts of inspectors.**—“The voters of an election district are not to be disfranchised by reason of irregularities in the conduct of inspectors, which do not affect the result of the vote.” (*Opinion of Attorney-General*.)

**Allowance of time for employes to vote.**—“Any person entitled to vote at a general election held within this state, shall, on the day of such election, be entitled to absent himself from any service or employment in which he is then engaged or employed, for a period of two hours, while the polls of such election are open. If such voter shall notify his employer, before the day of such election, of such intended absence, and if thereupon two consecutive hours for such absence shall be designated by the employer, and such absence shall be during such designated hours, or if the employer, upon the day of such notice, makes no designation, and such absence shall be during any two consecutive hours while such polls are open, no deduction shall be made from the usual salary or wages of such voter, and no other penalty shall be imposed upon him by his employer, by reason of such absence.” (§ 109, *Election Law*.)

**Refusal to permit employes to attend elections.**—“A person or corporation who refuses to an employe entitled to vote at an election or town meeting, the privilege of attending thereat, as provided by the election law, or subjects such employe to a penalty or reduction of wages because of the exercise of such privilege, is guilty of a misdemeanor.” (§ 41f, *Penal Code*.)

**Persons excluded from the right of suffrages, etc.**—“No person who shall receive, expect, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of any election. The legislature shall enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.” (§ 2, *art. 2, Revised State Constitution.*)

**Pardon and restoration.**—“The governor has the exclusive power of pardoning and restoring to the rights of a citizen criminals convicted in the courts of this state.” (*See § 5, art. 4, State Constitution.*)

**Voting after conviction of infamous crime.**—“Any person who has been convicted of an infamous crime and has been sentenced or committed therefor to a state prison or penitentiary, who votes at any election unless he shall have been pardoned and restored to all the rights of a citizen, is guilty of a misdemeanor.” (§ 411, *Penal Code.*)

**Infamous crimes,** a conviction for which will take away the right to vote, are such as treason, felony, the *crimen falsi* and in general offenses implying such a dereliction of moral principle as carries with it a conviction of a total disregard to the obligation of an oath. (*People v. Parr, 42 Hun, 313.*)

**Disabilities of persons removed.**—“The disqualification to testify created by section twenty-three (original number) of title seven, chapter first of part fourth of the Revised Statutes, and the prohibition to vote at any election contained in section fifteen of chapter two hundred and forty of the Laws of eighteen hundred and forty-seven, shall not apply to a person heretofore convicted, or hereafter to be convicted, of felony, or of any infamous crime, and in consequence thereof committed to one of the houses of refuge or other reformatories organized under the laws of this state.” (*Chap. 113, 1872, entitled “An act to relieve juvenile delinquents from certain disqualifications.”*)

**Voting residence.**—“For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any alms-house, or other asylum, or institution wholly or partly supported at public expense or by charity; nor while confined in any public prison.” (§ 3, *art. 2, State Constitution.*)

**Voting residence of government employees.**—“The voting residence of a person is largely a question of intention. A residence is not changed by engaging in the service of the government.” (*Opinion of Attorney-General.*)

**Residence—matter of intention.**—“The question of the place of residence of a voter is largely a matter of intention.

“As a general proposition, it may be stated that the residence required by the constitution is a place which a person has fixed as a habitation without any present intention of removing therefrom. A residence, once acquired, continues to be the residence of a person until such person absents himself therefrom and locates at another place with the intention of there remaining. Temporary absence, with the purpose of returning, does not effect a change of residence.” (*Opinion of Attorney-General.*)

**Residence, for the purpose of voting, and how not lost or acquired.**—“A residence is ‘the place of abode,’ ‘the place in which one usually has his home.’ To reside in a particular election district and county is for one to have his home usually and at the time of election in such election district. A person, in order to entitle him to vote, must, as before stated, be a resident of such election district thirty days, of the county four months, and of the state one year, and ‘for the purpose of voting’ it

is by our constitution provided that 'no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States; nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any alms-house or other asylum at public expense; nor while confined in any public prison.

"If an elector change his residence from one election district to another, in the same county, within thirty days previous to a general or special election, he thereby loses the right of voting at such election. If he remove within thirty days of a town or city election, from one town to another, in the same county, or from one ward to another, in the same city (or from one election district to another, in the same city, or from one election district of a town having election districts for town meeting to another election district in the same town), he thereby loses the right of voting at such election, for town, ward or city officers.

"It must be borne in mind that no person can (as is sometimes erroneously believed) vote for governor or any other officer, except in the election district of his actual residence." (*Election Code by Secretary of State.*)

**A student living in one of the seminary buildings** of the General Theological Seminary of the Episcopal Church in New York city is not entitled to be registered in the election district in which the seminary is situated, unless he intends to change his legal residence from his former residence, and such intention be manifested by acts which are independent of his residence as a student in the locality. (*Matter of Garvey*, 147 N. Y. 117.)

**The Homes for Aged Men** in Albany and Oneida counties are "institutions wholly or partly supported by charity," within section 34 of the Election Law, and within section 3, article 2 of the State Constitution, and persons domiciled there shall not be deemed to have gained or lost a residence while there. But such sections of the law and the Constitution are not retroactive, and inmates of such homes who voted in the district where the homes are situated before the constitutional provision went into effect, shall not be deprived of their votes, as they are deemed to have intended thereby to make such institution their permanent residence. (*Matter of Batterman*, 14 Misc. Rep. 213; *Matter of Griffiths*, 16 id. 128.)

**Soldiers in the United States army** do not acquire a residence by being quartered long in a particular place. (*Biddle and Richards v. Wing*, Cl. & H. 504, 512.)

Residence is determined by the intention of the party. An elector cannot have two homes at the same time; when he acquires the new home he loses the old one. To effect this change there must be both act and intention. *McDaniels' Case*, 3 Pa. L. J. 310; *Sturgeon v. Korte*, 38 Ohio St. 625; *Johnson v. People*, 94 Ill. 505.)

**Manner of voting.**—Section five of article two of the Constitution provides that: "All elections by the citizens shall be

by ballot, except for such town officers as may, by law, be directed to be otherwise chosen." The particular manner of voting prescribed by law will be found on page 131.

**Voting by an inhabitant of another state or country.**— "Any inhabitant of another state or country who votes or offers to vote at an election or town meeting in this state, is guilty of a felony." (§ 41*m*, *Penal Code*.)

**Failure of house-dweller to answer inquiries.**— "Any person dwelling in a building in a city who willfully refuses to truly answer any question asked by any elector of such city, between the first meeting of the boards of registry therein for any election and the closing of the polls at such election, relating to the residence and qualifications as a voter of any person dwelling in such building, or of any person who appears upon the list or register of voters made by a board of registry as residing at such building, is guilty of a misdemeanor." (§ 41*d*, *Penal Code*.)

**Furnishing money or entertainment to induce attendance at polls.**— "Any person who, with the intent to promote the election of a person to an elective office :

" 1. Furnishes entertainment to the electors before or during an election or town meeting at which such person is a candidate ; or,

" 2. Pays for, procures, or engages to pay for such entertainment ; or,

" 3. Furnishes money or other property, or engages to compensate any person for procuring the attendance of voters at the polls of such election or town meeting ; or

" 4. Contributes money for any other purposes than the printing and circulating of hand bills, books and other papers previous to an election or town meeting, or conveying electors to the polls, or music, or rent of halls, is guilty of a misdemeanor." (§ 41*o*, *Penal Code*.)

**Giving considerations for franchise.**— "Any person who directly or indirectly, by himself or through any other person :

" 1. Pays, lends or contributes, or offers or promises to pay, lend or contribute any money or other valuable consideration to or for any voter, or to or for any other person,

to induce such voter to vote or refrain from voting at any election, or to induce any voter to vote or refrain from voting at such election for any particular person or persons, or for or against any particular proposition submitted to voters, or to induce such voter to come to the polls or remain away from the polls at such election, or to induce such voter to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such voter having voted or refrained from voting or having voted or refrained from voting for or against any particular person or for or against any proposition submitted to voters or having come to the polls or remained away from the polls at such election, or having placed or caused to be placed or refrained from placing or causing to be placed his name upon the registry of voters; or

“2. Gives, offers or promises any office, place or employment, or promises to procure or endeavor to procure any office, place or employment to or for any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting at any election, or to induce any voter to vote or refrain from voting at such election, for or against any particular person or persons, or for or against any proposition submitted to voters, or to induce any voter to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters; or

“3. Gives, offers or promises any office, place, employment or valuable thing as an inducement for any voter or other person to procure or aid in procuring either a large or a small vote, plurality or majority at any election district, or other political division of the state, for a candidate or candidates to be voted for at an election; or to cause a larger or smaller vote, plurality or majority to be cast or given for any candidate or candidates in one such district or political division than in another; or

“4. Makes any gift, loan, promise, offer, procurement or agreement as aforesaid to, for or with any person to induce such person to procure or endeavor to procure the election of any person or the vote of any voter at any election; or

“5. Procures or engages, or promises or endeavors to pro-

cure, in consequence of any such gift, loan, offer, promise, procurement or agreement, the election of any person, or the vote of any voter, at such election ; or

“6. Advances or pays, or causes to be paid, any money or other valuable thing, to or for the use of any other person with the intent that the same, or any part thereof, shall be used in bribery at any election, or knowingly pays or causes to be paid any money or other valuable thing to any person in discharge or repayment of any money, wholly or in part expended in bribery at any election, is guilty of an infamous crime punishable by imprisonment for not less than three months nor more than one year, and in addition forfeits any office to which he may have been elected at the election with reference to which such offense was committed, and becomes incapable of holding any public office under the constitution and laws of this state for a period of five years after such conviction.” (§ 41*p*, *Penal Code*.)

**Receiving consideration for franchise.**—“Any person who, directly or indirectly, by himself or through any other person :

“1. Receives, agrees or contracts for, before or during an election, any money, gift, loan or other valuable consideration, office, place or employment for himself, or any other person for voting or agreeing to vote, or for coming or agreeing to come to the polls, or for remaining away or agreeing to remain away from the polls, or for refraining or agreeing to refrain from registering as a voter, or for refraining or agreeing to refrain from voting or for voting or for agreeing to vote, or for refraining or agreeing to refrain from voting for or against any particular person or persons at any election, or for or against any proposition submitted to voters at such election ; or

“2. Receives any money or other valuable thing during or after an election on account of himself or any other person having voted or refrained from voting at such an election, or having registered or refrained from registering as a voter, or on account of himself or any other person having voted or refrained from voting for or against any particular person at such election, or for or against any proposition submitted to voters at such election, or on account of himself or any other



person having come to the polls or remained away from the polls at such election, or having registered or refrained from registering as a voter, or on account of having induced any other person to vote or refrain from voting for or against any particular person or persons at such election or for or against any proposition submitted to the voters at such election, is guilty of an infamous crime, punishable by imprisonment for not less than three months nor more than one year, and in addition shall be excluded from the right of suffrage for five years after such conviction ; and the county clerk of the county in which such person is convicted shall transmit a certified copy of the record of conviction to the clerk of each county of the state, within ten days thereafter, which copy shall be filed in his office by each of such clerks." (§ 41*g*, *Penal Code*.)

**Testimony upon prosecution.**— "A person offending against any provision of section forty-one-p or of section forty-one-q of this code is a competent witness against another person so offending, and may be compelled to attend and testify on any trial, hearing or proceeding or investigation in the same manner as any other person. The testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person testifying. A person testifying shall not thereafter be liable to indictment, prosecution or punishment for the offense with reference to which his testimony was given, and may plead or prove the giving of testimony accordingly, in bar of such an indictment or prosecution." (41*r*, *Penal Code*.)

**Bribery or intimidation of elector in military service of the United States.**— "Any person who, directly or indirectly, by bribery, menace or other corrupt means, controls or attempts to control an elector of this state enlisted in the military service of the United States, in the exercise of his rights under the election law, or annoys, injures or punishes him for the manner in which he exercised such right, is guilty of a misdemeanor for which he may be tried at any future time when he may be found within this state ; and upon conviction thereof shall thereafter be ineligible to any office therein." (§ 41*s*, *Penal Code*.)

**Duress and intimidation of voters.**— “ Any person or corporation who directly or indirectly :

“ 1. Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting at any election or to vote or refrain from voting for or against any particular person or persons or for or against any proposition submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or having registered or refrained from registering as a voter ; or,

“ 2. By abduction, duress or any forcible or fraudulent device or contrivance whatever impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any voter, or compels, induces or prevails upon any voter to give or refrain from giving his vote for or against any particular person at any election ; or,

“ 3. Being an employer, pays his employe the salary or wages due in ‘ pay envelopes,’ upon which there is written or printed any political motto, device or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employes, or within ninety days of a general election puts or otherwise exhibits in the establishment or place where his employes are engaged in labor, any hand bill or placard containing any threat, notice or information that if any particular ticket or candidate is elected or defeated, work in his place or establishment will cease, in whole or in part, his establishment be closed up, or the wages of his employes reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his employes, is guilty of a misdemeanor, and if a corporation shall in addition forfeit its charter.” (§ 411, *Penal Code*.)

**Political assessments.**—"Any person who,

"1. Being an officer or employe of the state, or of a political subdivision thereof, directly or indirectly uses his authority or official influence to compel or induce any other officer or employe of the state or a political subdivision thereof, to pay or promise to pay any political assessments; or,

"2. Being an officer or employe of the state, or of a political subdivision thereof, directly or indirectly gives, pays or hands over to any other such officer or employe any money or other valuable thing on account of or to be applied to the promotion of his election, appointment or retention in office, or makes any promise, or gives any subscription to such officer or employe to pay or contribute any money or other valuable thing for any such purpose or object; or

"3. Being such an officer or employe and having charge or control of any building, office or room occupied for any purpose of the state or of a political subdivision thereof, consents that any person enter the same for the purpose of making, collecting, receiving or giving notice of any political assessment; or

"4. Enters or remains in any such office, building or room, or sends or directs any letter or other writing thereto, for the purpose of giving notice of demanding or collecting, or being therein, gives notice of, demands, collects or receives, any political assessment;

"5. Prepares or makes out, or takes any part in preparing or making out, any political assessment, subscription or contribution, with the intent that the same shall be sent or presented to or collected of any such officer or employe; or

"6. Sends or presents any political assessment, subscription, or contribution to, or requests its payment of, any such officer or employe, is guilty of a misdemeanor." (§ 41v, *Penal Code*.)

**Corrupt use of position or authority.**—"Any person who,

"1. While holding a public office, or being nominated or seeking a nomination or appointment therefor, corruptly uses or promises to use, directly or indirectly, any official authority or influence possessed or anticipated, in the way of conferring upon any person, or in order to secure, or aid any

person in securing, any office or public appointment, or any nomination, confirmation, promotion or increase of salary, upon consideration that the vote or political influence or action of the person so to be benefited or of any other person, shall be given or used in behalf of any candidate, officer or party or upon any other corrupt condition or consideration; or

"2. Being a public officer or employe of the state or a political subdivision having, or claiming to have, any authority or influence affecting the nomination, public employment, confirmation, promotion, removal, or increase or decrease of salary of any public officer or employe, or promises or threatens to use, any such authority or influence, directly or indirectly to affect the vote or political action of any such public officer or employe, or on account of the vote or political action of such officer or employe; or

"3. Makes, tenders or offers to procure, or cause any nomination or appointment for any public office or place, or accepts or requests any such nomination or appointment, upon the payment or contribution of any valuable consideration, or upon an understanding or promise thereof, or

"4. Makes any gift, promise or contribution to any person, upon the condition or consideration of receiving an appointment or election to a public office or a position of public employment, or for receiving or retaining any such office or position, or promotion, privilege, increase of salary or compensation therein, or exemption from removal or discharge therefrom, is punishable by imprisonment for not more than two years or by a fine of not more than three thousand dollars or both." (§ 41w, *Penal Code*.)

**Illegal voting.**— "Any person who,

"1. Knowingly votes or offers to vote at any election or town meeting when not qualified; or,

"2. Procures, aids, assists, counsels or advises any person to go or come into any town, ward or election district, for the purpose of voting at any election or town meeting, knowing that such person is not qualified; or,

"3. Votes or offers to vote at an election or town meeting more than once; or votes or offers to vote at an election or

town meeting under any other name than his own ; or votes or offers to vote at an election or town meeting in an election district or place where he does not reside ; or,

“ 4. Procures, aids, assists, commands or advises another to vote or offer to vote at an election or town meeting, knowing that such person is not qualified to vote thereat ; or,

“ 5. Being an inhabitant of another state or country, votes or offers to vote at an election or town meeting in this state, is guilty of felony, punishable by imprisonment in a state prison not less than two nor more than five years.” (§ 41m, *Penal Code*.)

## CITIZENSHIP.

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**Citizens, who are.**—“All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States.” (*U. S. R. S.*, 2d ed., § 1992. *tit.* 25.)

“All children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were and may be, at the time of this birth, citizens thereof, are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States.” (§ 1993, *same tit.*)

“All persons born in the district or country formerly known as the Territory of Oregon and subject to the jurisdiction of the United States, on the eighteenth May, eighteen hundred and seventy-two, are citizens in the same manner as if born elsewhere in the United States.” (*U. S. R. S.*, 2d ed., § 1995, *tit.* 25.)

**Citizens, when married women are.**—“Any woman who is now or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen.” (§ 1994, *same tit.*) [*See, also*, § 2168 of *tit.* 30, *U. S. R. S.*, 2d ed., *as to widows and children of aliens, who have complied with the first condition of* § 2106 of said *R. S.*]

**Deserters incapable of holding office under the United States, or exercising any right of citizenship.**—“All persons who deserted the military or naval service of the United States and did not return thereto or report themselves to a provost-marshal within sixty days after the issuance of the proclamation by the president, dated the eleventh day of March, eighteen hundred and sixty-five, are deemed to have voluntarily relinquished and forfeited their rights of citizenship, as well as their right to become citizens; and such deserters shall be forever incapable of holding any office of

trust or profit under the United States, or of exercising any right of citizens thereof." (§ 1996, *same tit.*)

**Faithful service until April 19, 1865, deemed to work removal of disability under preceding section.**—"No soldier or sailor, however, who faithfully served according to his enlistment until the nineteenth day of April, eighteen hundred and sixty-five, and who, without proper authority or leave first obtained, quit his command or refused to serve after that date, shall be held to be a deserter from the army or navy; but this section shall be construed solely as a removal of any disability such soldier or sailor may have incurred, under the preceding section, by the loss of citizenship and of the right to hold office in consequence of his desertion." (§ 1997, *same tit.*)

**Desertion hereafter to work loss of citizenship.**—"Every person who hereafter deserts the military or naval service of the United States, or who, being duly enrolled, departs the jurisdiction of the district in which he is enrolled, or goes beyond the limits of the United States, with intent to avoid any draft into the military or naval service, lawfully ordered, shall be liable to all the penalties and forfeitures of section nineteen hundred and ninety-six." (*U. S. R. S.*, 2d ed., § 1998, *tit.* 25.)

**Rights of expatriation maintained.**—"Whereas the right of expatriation is a natural and inherent right of all people indispensable to the enjoyment of the rights of life, liberty and the pursuit of happiness; and whereas in the recognition of this principle, this government has freely received emigrants from all nations and invested them with the rights of citizenship; and whereas it is claimed that such American citizens with their descendants are subjects of foreign states, owing allegiance to the governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed. Therefore, any declaration, instruction, opinion, order or decision of any officer of the United States which denies, restricts, impairs or questions the right of expatriation is declared inconsistent with the fundamental principles of the republic."

**Voters to be ascertained.**—“Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established.” (§ 4, *art. 2, State Constitution.*)

**Citizenship of persons born in the United States.**—“Persons born in the United States, although of alien parentage, are citizens of the United States.” (*Opinion of Attorney-General.*)

**Citizenship of foreign-born child of a mother who is a citizen.**—“The child born in a foreign country of a mother who is a citizen of the United States is not himself a citizen by reason of his mother's citizenship.” (*Opinion of Attorney-General.*)

**Citizenship of children born abroad of American parents — expatriation.**—“Children born abroad of American parents are American citizens. The right of expatriation is recognized by law.” (*Opinion of Attorney-General.*)



# NATURALIZATION.

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**Aliens, how naturalized.**—“An alien may be admitted to become a citizen of the United States in the following manner, and not otherwise :

“1. He shall declare on oath, before a circuit or district court of the United States or a district or supreme court of the territories, or a court of record of any of the states having common-law jurisdiction, and a seal and clerk, two years, at least, prior to his admission, that it is *bona fide* his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty, and, particularly, by name, to the prince, potentate, state or sovereignty of which the alien may be at the time a citizen or subject.

“2. He shall at the time of his application to be admitted, declare, on oath, before some one of the courts above specified, that he will support the constitution of the United States, and that he absolutely and entirely renounces and adjures all allegiance and fidelity to every foreign prince, potentate, state or sovereignty, and, particularly, by name, to the prince, potentate, state or sovereignty of which he was before a citizen or subject ; which proceedings shall be recorded by the clerk of the court.

“3. It shall be made to appear to the satisfaction of the court admitting such alien that he has resided within the United States five years at least, and within the state or territory where such court is at the time held, one year at least, and that during that time he has behaved as a man of good moral character, attached to the principles of the constitution of the United States and well disposed to the good order and happiness of the same ; but the oath of the applicant shall in no case be allowed to prove his residence.

“4. In case the alien applying to be admitted to citizenship has borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came he shall,

in addition to the above requisites, make an express renunciation of his title or order of nobility in the court to which his application is made, and his renunciation shall be recorded in the court.

“5. Any alien who was residing within the limits and under the jurisdiction of the United States before the twenty-ninth day of January, one thousand seven hundred and ninety-five, may be admitted to become a citizen, on due proof made to some one of the courts above specified, that he has resided two years, at least, within the jurisdiction of the United States, and one year, at least, immediately preceding his application within the state or territory, where such court is at the time held; and on his declaring on oath that he will support the constitution of the United States, and that he absolutely and entirely renounces and adjures all allegiance and fidelity to any foreign prince, potentate, state or sovereignty and particularly by name to the prince, potentate, state or sovereignty whereof he was before a citizen or subject; and also, on its appearing to the satisfaction of the court, that during such term of two years he has behaved as a man of good moral character, attached to the constitution of the United States, and well disposed to the good order and happiness of the same; and where the alien applying for admission to citizenship, has borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came, on his, moreover, making in the court an express renunciation of his title or order of nobility. All of the proceedings required in this condition to be performed in the court, shall be recorded by the clerk thereof.

“6. Any alien who was residing within the limits and under the jurisdiction of the United States, between the eighteenth day of June, one thousand seven hundred and ninety-eight, and the eighteenth day of June, one thousand eight hundred and twelve, and who has continued to reside within the same, may be admitted to become a citizen of the United States without having made any previous declaration of his intention to become such; but whenever any person without a certificate of such declaration of intention, makes application to be admitted a citizen, it must be proved to the satisfaction of

the court, that the applicant was residing within the limits and under the jurisdiction of the United States before the eighteenth day of June, one thousand eight hundred and twelve, and has continued to reside within the same; and the residence of the applicant within the limits and under the jurisdiction of the United States, for at least five years immediately preceding the time of such application, must be proved by the oath of citizens of the United States, which citizens shall be named in the record as witnesses; and such continued residence within the limits and under the jurisdiction of the United States, when satisfactorily proved, and the place where the applicant has resided for at least five years, shall be stated and set forth, together with the names of such citizens, in the record of the court admitting the applicant; otherwise the same shall not entitle him to be considered and deemed a citizen of the United States. (Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the declaration of intention to become a citizen of the United States, required by section two thousand one hundred and sixty-five of the Revised Statutes of the United States, may be made by an alien before the clerk of any of the courts named in said section two thousand one hundred and sixty-five; and all such declarations heretofore made before any such clerk are hereby declared as legal and valid as if made before one of the courts made in said section." (*U. S. R. S.*, 2d ed., 2165, *tit.* 30.)

**Aliens honorably discharged from the military service.—**

"Any alien of the age of twenty-one years and upwards, who has enlisted, or may enlist, in the armies of the United States, either the regular or volunteer forces, and has been, or may be hereafter, honorably discharged, shall be admitted to become a citizen of the United States, upon his petition, without any previous declaration of his intention to become such; and he shall not be required to prove more than one year's residence within the United States previous to his application to become such citizen; and the court admitting such alien shall, in addition to such proof of residence and good moral character, as now provided by law, be satisfied by

competent proof of such person's having been honorably discharged from the service of the United States." (*U. S. R. S.*, 2d ed., § 2166, *tit.* 30.)

**Certain persons arriving in their minority may be naturalized.**— "Any alien, being under the age of twenty-one years, who has resided in the United States three years next preceding his arriving at that age, and who has continued to reside therein to the time he may make application to be admitted a citizen thereof, may, after he arrives at the age of twenty-one years, and after he has resided five years within the United States, including the three years of his minority, be admitted a citizen of the United States, without having made the declaration required in the first condition of section twenty-one hundred and sixty-five; but such alien shall make the declaration required therein at the time of his admission; and shall further declare on oath, and prove to the satisfaction of the court, that for two years next preceding it has been his *bona fide* intention to become a citizen of the United States; and he shall in all other respects comply with the laws in regard to naturalization." (*U. S. R. S.*, 2d ed., § 2167, *tit.* 30.)

**Aliens of African nativity.**— "The provisions of this title shall apply to aliens of African nativity and to persons of African descent." (§ 2169, *same tit.*)

**Uninterrupted residence.**— "No alien shall be admitted to become a citizen who has not for the continued term of five years next preceding his admission resided within the United States." (§ 2170, *same tit.*) [*For provisions respecting an alien whose country is at war with the United States at the time of his application to become a citizen, see § 2171 of the U. S. R. S.*]

**Minor children of persons naturalized.**— "The children of persons who have been duly naturalized under the law of the United States, or who, previous to the passing of any law on that subject by the government of the United States, may have become citizens of any one of the states, under the laws thereof, being under the age of twenty-one years at the time of the naturalization of their parents, shall, if dwelling in the United States, be considered as citizens thereof; and the children of persons who now are, or have been, citizens of

the United States, shall, though born out of the limits and jurisdiction of United States, be considered as citizens thereof; but no person heretofore proscribed by any state, or who has been legally convicted of having joined the army of Great Britain during the revolutionary war, shall be admitted to become a citizen without the consent of the legislature of the state in which such person was proscribed." (*U. S. R. S., 2d ed., § 2172, tit. 30.*)

**When seamen, being foreigners, may become citizens.**— "Every seaman, being a foreigner, who declares his intention of becoming a citizen of the United States in any competent court, and shall have served three years on board of a merchant vessel of the United States subsequent to the date of such declaration, may, on his application to any competent court, and the production of his certificate of discharge and good conduct during that time, together with the certificate of declaration of his intention to become a citizen, be admitted a citizen of the United States; and every seaman, being a foreigner, shall, after his declaration of intention to become a citizen of the United States, and after he shall have served such three years, be deemed a citizen of the United States for the purpose of manning and serving on board any merchant vessel of the United States, anything to the contrary in any act of congress notwithstanding; but such seaman shall, for all purposes of protection as an American citizen, be deemed such, after the filing of his declaration of intention to become such citizen." (§ 2174, *same tit.*)

**Procuring fraudulent certificates of naturalization in order to vote.**— "Any person who knowingly and willfully procures from any court, judge, clerk or other officer, a certificate of naturalization, which has been allowed, issued, signed or sealed in violation of the laws of the United States or of this state, with intent to enable himself or any other person to vote at any election, when he or such person is not entitled by the laws of the United States to become a citizen or to exercise the elective franchise, is guilty of a felony." (§ 41x, *Penal Code.*)

**Instructions concerning naturalization.**— The applicant must have resided in the United States for the continued term of five years next preceding his admission, and one year, at least, within the state or territory

where the court is held that admits him. Two years, at least, before his admission he must declare, on oath, or affirmation, before the supreme court or a county court of the state, or before a circuit or district court of the United States, his intention to become a citizen, etc. If the applicant was a minor, under the age of eighteen years when he came to the country, this previous declaration of intention is dispensed with, and he is entitled to be admitted after he has arrived at the age of twenty-one years, if he has resided five years in the United States, including the three years of his minority, and has continued to so reside up to the time when he makes his application. By act of congress, approved July seventeen, eighteen hundred and sixty-two, aliens of the age of twenty-one years and upward, who have enlisted in the armies of the United States, in the regular or volunteer forces, and have been honorably discharged, are entitled to become citizens of the United States upon petition, without previous declaration or intention. Aliens, under such circumstances, are not required to prove more than one year's residence within the United States. This act materially alters the previous laws, but does not in any manner do away with the necessity of procuring regular naturalization papers. By act of congress June seven, eighteen hundred and seventy-two, seamen of foreign birth, who have declared intention to become citizens, may be naturalized after three years' service on merchant ships.

# State Naturalization Law.

(Chapter 927, Laws of 1895.)

**SECTION 1. Courts having jurisdiction.**— The supreme court in the respective judicial districts and the county courts in the respective counties of this state shall have jurisdiction of declarations of intention, and of applications of aliens to become citizens of the United States; no other court or courts now or hereafter established by this state shall entertain a primary or final declaration or application made by or on behalf of an alien to be admitted to become a citizen of the United States, or have or entertain jurisdiction of the naturalization of an alien; nor shall any clerk of any such court or courts receive any such declaration, application or papers.

§ 2. **Primary declarations.**— Primary declarations of intention of aliens to become citizens of the United States may be recorded and filed in the supreme court in the respective judicial districts and the county courts in the respective counties of this state at any time, and the requisite and prescribed oath administered by the clerk of the court at the time of such recording and filing; a complete record of each and every of the said declarations shall be entered in the proper docket of the court by the clerk thereof, which said record the alien shall subscribe, or cause to be subscribed, and he shall also add, or cause to be added, in writing, the street and number of the house in which he resides, and the name of the city, town, village or other place where such residence is situated; provided, that where the street and number, as required by the provisions of this section of this act, cannot be given, the place of residence shall be described with sufficient accuracy for identification.

§ 3. **Final application of aliens.**— Final applications of aliens to be admitted to become citizens of the United States, made in any of the courts of this state in which, by the provisions of this act, such applications may be made, may be filed in term time or during vacation; but final

action thereon shall be had only on stated days, to be fixed by rule of the respective courts; every application shall be entered on the docket of the court on the day on which the application shall be made; such application shall be in the form of a petition, subscribed and verified by the oath of the applicant, and shall be filed in the court to which it is presented at least fourteen days before final action thereon shall be had; the petition herein provided for shall state the place and country of the birth of the petitioner and the time and place of his arrival in the United States, the grounds on which he claims the right to be naturalized, and shall set forth his name in full, his age and occupation, the name of the street and the number of the house in which he resides, and the name of the city, town, village or other place in which such residence is situated, and the name of the person or the name of the persons whom the said applicant intends to summon as witnesses at the final hearing upon his said application, together with the street and number of the residence or residences of such witnesses; simultaneously with the presentation and filing of the petition herein prescribed and provided for, there shall also be filed an affidavit of a person, who must be a citizen of the United States, and who may or may not be a person whom the petitioner intends to summon as a witness at the final hearing upon his application to be admitted to become a citizen of the United States, which said affidavit shall set forth the full name, residence and occupation of the affiant, and that the affiant is a citizen of the United States and is personally well acquainted with the petitioner, and that the said petitioner will have resided for five years within the United States, and one year within the state of New York, immediately preceding the return day of the petition, and that during that time the said petitioner has behaved as a man of good moral character, attached to the principles of the constitution of the United States, and well disposed to the good order and happiness of the same, provided that in applications made pursuant to sections two thousand one hundred and sixty-six and two thousand one hundred and seventy-four of the revised statutes of the United States, it shall be sufficient for the affiant to swear to the length of residence or service



required by said sections respectively, and in applications made pursuant to section two thousand one hundred and sixty-seven of the revised statutes of the United States, and any amendments thereof, the affiant shall also declare his belief, with the grounds therefor, that for the portion of the two years next preceding the return day of the said petition that has elapsed at the time of its presentation, it has been bona fide the intention of the petitioner to become a citizen of the United States; provided, that in applications where the street number, as required by the provisions of this section of this act, cannot be given the place or places of residence shall be described with sufficient accuracy for identification; and provided further, that none of the provisions and requirements of this act shall be deemed to dispense with, nor shall they or any of them dispense with, the evidence and proofs, or other requirements, provided for and required in cases of naturalization under, in accordance with, and by virtue of the provisions of the revised statutes of the United States and the laws of congress.

**§ 4. Notice of application.**— Every person who may or shall hereafter make application in any of the courts of this state, in which by the provisions of this act such applications may be made, to be admitted to become a citizen of the United States, shall give notice in writing of his application to the clerk of the city, town, village or other place where he resides, or, if there be no clerk, then to the officer or person performing similar duties in such place of his residence, at least fourteen days before the final hearing upon his application, as aforesaid, which said notice shall contain his full name, age, occupation, residence and the name of the court in which his said petition has been filed and is pending; it shall be the duty of such clerk, or other officer or person, to make and preserve a complete record of all such notices in a form convenient for public inspection, and to give each applicant who has given such notice a certificate that the provisions of this section of this act have been complied with, and this certificate shall be filed by the said petitioner in the court in which his said petition is filed and pending determination before final action thereon shall be taken by the court.

§ 5. **Posting of notice.**—The clerk, or other officer or person performing similar duties, of the city, town, village or other place of the applicant's residence, shall, within seven days from the receipt of the notice prescribed in the preceding section, post in at least two public places in such city, town, village, or other place, the date of the receipt of the notice, the name of the applicant, his age, occupation, residence and court in which his petition is pending, on lists with blank forms containing the following headings :

Date of receipt of notice.	Name.	Age.	Occupation.	Residence.	Court in which petition is pending.

§ 6. **Record of final application.**—A record of every final application to be admitted to become a citizen of the United States shall be kept by the clerk of the court in which such application shall be made, and shall be open to the inspection of the public, at reasonable times and upon proper demand ; such record shall contain the names of all applicants, arranged alphabetically according to their surnames, and also the residences of the said applicants ; it shall further state the nationality of each applicant and the form and nature of the application, whether based upon a preliminary declaration of intention or upon a petition founded upon and made in accordance with the provisions and requirements of section two thousand one hundred and sixty-seven of the revised statutes of the United States, and any amendments thereof, or otherwise ; and it shall further state the name of the witness, or the names of the witnesses, summoned by the said applicant and appearing upon his final application to be admitted to become a citizen of the United States, with the residence or residences of such witness or witnesses ; a return shall be made annually by

the several clerks, on or before the first day of February of each year, to the secretary of state, of the full name and residence of each and every person so naturalized and admitted to become a citizen of the United States during the year prior to the first day of the preceding January, together with the date of such naturalization and admission to citizenship; and the returns so made shall be filed and kept by the secretary of state in a form convenient for reference. Copies of such returns, certified by the secretary of state under his official seal, shall be prima facie evidence of the facts therein stated.

§ 7. **Fees of officer.**— The fees of the clerk or other officers or persons of cities, towns, villages or other places for the recording of the notice and the issuing of the certificate provided for under the provisions of the fourth and fifth sections of this act, shall be the sum of fifty cents for each application.

§ 8. **Penalty for violation.**— Any clerk or other person who records or files any declaration or application in any case of naturalization, or issues any certificate in any case of naturalization, in violation of the provisions of this act, or any of them, shall be punished by a fine of one hundred dollars.

§ 9. **Payments by political committees prohibited.**— No political committee or committee of any political party, and no person who has received or accepted a nomination for any political office, shall make any payment or promise of payment of money to or on behalf of any person for fees for the primary or final declaration or application for naturalization, or for services as attorney or counsel, or as agent or otherwise in assisting or enabling any person or persons to make such declaration or application; whoever violates any of the provisions of this section of this act shall be punished upon conviction thereof, by a fine of not less than five hundred dollars nor more than one thousand dollars.

## Town Meetings, and the Election and Tenure of Town Officers.

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(Article 2, Town Law, Chapter 569, Laws of 1890.)

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§ 10. **Time and place of annual town meeting.**—“The electors of a town, except in counties containing upwards of six hundred thousand inhabitants shall annually on the second Tuesday of February, assemble and hold town meetings at such place in the town as the electors thereof at their annual town meeting shall, from time to time appoint. If no place shall have been fixed for such meeting, the same shall be held at the place of the last annual town meeting in the town or election district, where town meetings of a town are held in election districts. The board of supervisors of any county may, by resolution adopted at an annual meeting of such board, fix a time when the annual town meetings in such county shall be held which shall be on some day between the first day of February and the first day of May inclusive, and such time, when so fixed shall not be changed for a period of three years. The annual town meetings in the towns in each county containing more than three hundred thousand and less than six hundred thousand inhabitants, according to the then last preceding state or federal enumeration, shall be held on the second Tuesday of March, eighteen hundred and ninety-two, and annually thereafter on the second Tuesday of March until otherwise directed by the board of supervisors of such county. At each such town meeting, in the year eighteen hundred and ninety-two, there shall be elected justices of the peace and such other town officers as are now required by law to be elected whether by expiration of term or otherwise, and the successors of those town officers respectively who were elected at the general election in eighteen hundred and ninety-one, and whose terms may expire at or before the town meeting of eighteen hundred and ninety-three. But nothing herein contained shall be so con-

strued as to abridge or extend the terms of any of the town officers who were elected or appointed at the general election in the year eighteen hundred and ninety-one, but their terms of office shall continue until the expiration of the term for which such officers were elected or appointed, and at the expiration thereof their successors elected or appointed pursuant to this act, as hereby amended, shall enter upon the discharge of their duties and serve until the expiration of the term for which they have been severally elected or appointed and until their successors are elected and qualified." (*Thus amended by Laws 1893, chap. 82.*)

§ 11. **Changing place of annual town meeting.**—"The electors of a town may upon the application of fifteen electors therein, to be filed with the town clerk twenty days before an annual town meeting is to be held, determine at such meeting, by ballot, where future town meetings shall be held. Where town meetings in any town are held in separate election districts, the electors of each district may, at an annual town meeting, determine by resolution where its future town meetings shall be held. If any place so designated shall thereafter and before the close of the next annual town meeting be destroyed, or for any reason become unfit for use, or cannot for any reason be used for such purpose, the town board shall forthwith designate some other suitable place for holding such town meeting in said town or election district as the case may be." (*Thus amended by Laws 1893, chap. 23.*)

§ 12. **Election of officers.**—"There shall be elected at the annual town meeting in each town, by ballot, one justice of the peace, one assessor, one collector, one commissioner of excise, one or two overseers of the poor, except in the counties of Richmond and Kings; one, two or three commissioners of highways, not more than five constables, and two inspectors of election for each election district in the town; and at each alternate annual town meeting, one supervisor and one town clerk, except in the county of Kings. If there shall be any vacancies in the office of supervisor, town clerk, justice of the peace, assessor, commissioners of excise, commissioners of highways, or overseers of the poor, of any town

at the time of holding its annual town meeting, persons shall then also be chosen to fill such vacancies, who shall hold their offices for the residue of the unexpired term for which they are respectively elected. All such officers, except justice of the peace, shall hold their respective offices until others are elected in their place and have qualified." (*Thus amended by Laws 1893, chap. 344.*)

§ 13. **Term of office.**—"Inspectors of election and constables, when elected, shall hold their respective offices for one year, and supervisors and town clerks for two years, except in the county of Kings. But whenever there is or shall be a change in the time of holding town meetings in any town, persons elected to such offices at the next annual town meeting after such change shall take effect, shall enter upon the discharge of their duties at the expiration of the term of their predecessors, and serve until the next annual town meeting thereafter or until their successors are elected and have qualified." (*Thus amended by Laws 1893, chap. 344.*)

§ 14. **Justices of the peace.**—"There shall be four justices of the peace in each town, divided into four classes, one of whom shall be annually elected and hold his office four years, commencing on the first day of January next succeeding his election."

§ 15. **Assessors.**—"There shall be three assessors in each town, divided into three classes, each of whom shall hold his office three years."

§ 16. **Commissioners of excise.**—"There shall be three commissioners of excise in each town, composing the board of excise of such town, who shall be divided into three classes, each of whom shall hold his office three years. No supervisor, town clerk, justice of the peace or trustee of a village shall be a commissioner of excise."

§ 17. **Commissioners of highways.**—"The electors of each town may, at their annual town meetings, determine by ballot whether there shall be elected in their town one or three commissioners of highways. If only one shall be determined upon, and it shall be a town having but one commissioner of highways, one commissioner only shall thereafter be elected at each alternate annual town meeting who shall hold

## 298 TOWN MEETINGS, ELECTION AND TENURE OF OFFICERS.

office for two years. If three shall be determined upon, three commissioners of highways shall then be elected for the terms of one, two or three years respectively ; and the person having the greatest number of votes for each term so designated, shall be deemed duly elected, and shall hold office for the term so designated, and one commissioner only, for a full term, shall thereafter annually be elected, who shall hold his office for three years. Whenever any town shall have determined upon having three commissioners of highways and shall desire to have but one, the electors thereof may do so by a vote by ballot taken at an annual town meeting, and when such proposition shall have been adopted, no other commissioner shall be elected or appointed until the term or terms of those in office at the time of adopting the proposition shall expire or become vacant ; and they may act until their terms shall severally expire or become vacant as fully as if three continued in office. When there shall be but one commissioner of highways in any town, he shall possess all the powers and discharge all the duties of commissioners of highways as prescribed by law." (*Thus amended by Laws 1895, chap. 239.*)

§ 18. **Overseers of the poor.**—"The electors of each town may, at their annual town meeting, determine by resolution whether they will elect one or two overseers of the poor, and the number so determined upon shall be the number to be elected. If only one be determined upon, one overseer of the poor shall thereafter be annually elected, who shall hold his office for one year. If two overseers of the poor are determined upon, then two overseers of the poor shall be elected for the terms of one and two years respectively ; and each ballot shall designate the person intended for the term of one year, and the person intended for the term of two years, and the person having the greatest number of votes for each term so designated shall be duly elected for the term so designated ; and one overseer of the poor only, for the full term, shall thereafter annually be elected, for the term of two years. Whenever any town shall have determined upon having two overseers of the poor, the electors thereof may determine by resolution at an annual town meeting

to thereafter have but one, and if they so determine, thereafter no other overseer shall be elected or appointed, until the term of the overseer continuing in office at the time of adopting the resolution shall expire or become vacant, and the overseer in office may continue to act until his term shall expire or become vacant. The electors of any town may, at their annual or regularly called special town meeting, on the application of at least twenty-five resident taxpayers whose names appear upon the then last preceding town assessment-roll, adopt by ballot a resolution that there shall be appointed in and for such town one overseer of the poor. If a majority of the ballots so cast shall be in favor of appointing an overseer of the poor, no overseer of the poor shall thereafter be elected in such town except as hereinafter provided; and the overseers of the poor of such town elected at the town meeting at which such resolution is adopted or who shall then be in office shall continue to hold office for the terms for which they were respectively chosen; and within thirty days before the expiration of the term of office of such elected overseer whose term expires latest, the town board of such town shall meet and appoint one overseer of the poor for such town who shall hold office for one year from the first day of May next after his appointment; and annually in the month of April in each year thereafter an overseer of the poor shall be appointed by the town board of such town for the term of one year from the first day of May next following such month of April. Each overseer of the poor so appointed shall execute and file with the town clerk an official undertaking in such form and for such sum as the town board may by resolution require and approve. An overseer of the poor, so appointed, shall not hold any other town office during the term for which he is so appointed, and if he shall accept an election or appointment to any other town office he shall immediately cease to be overseer of the poor. If a vacancy shall occur in the office of an overseer of the poor, so appointed, such vacancy shall be filled by the town board, by appointment, for the balance of the unexpired term. The compensation of an overseer of the poor, so appointed, shall be fixed



### 300 TOWN MEETINGS, ELECTION AND TENURE OF OFFICERS.

by the town board of such town, but shall not exceed, in any one year, the sum of one thousand dollars, and shall be a town charge. At any subsequent town meeting after the expiration of three years from the adoption of a resolution by any town to appoint an overseer of the poor, the electors of the town may determine by ballot to thereafter elect one or more overseers of the poor, and if they determine so to elect, then at the next annual town meeting thereafter one or more overseers of the poor shall be elected in pursuance of the laws regulating the election of overseers of the poor, and the term or terms of the overseer or overseers first so elected shall commence upon the expiration of the term of office of the overseer of the poor last theretofore appointed in pursuance of law, and shall expire as though each such term commenced at the time of election: and their successors shall thereafter be elected in pursuance of law.' (*This amended by Laws 1894, chap. 107.*)

**Inspectors for towns.**—"The presiding officer of each annual town meeting shall, immediately after the votes are canvassed, appoint by writing, two additional inspectors of election for each election district, to be associated with the two inspectors who shall have been elected, and which inspectors, so to be appointed, shall be those two persons in each election district who shall have received the highest number of votes next to the two persons who shall have been elected inspectors, and which inspectors, so to be appointed, shall belong to and be of the same political faith and opinion on state and national issues as one or the other of the two political parties which, at the last preceding general election for state officers, shall have cast the greatest and next to the greatest number of votes in said town, but they shall not belong to the same political party nor be of the same political faith and opinion on state and national issues as the inspectors who shall have been elected. If the two inspectors elected belong to different political parties, the inspectors appointed shall be the two candidates for inspectors not elected and receiving the highest and next to the highest number of votes respectively, and belonging to different political parties. No ballot shall be counted upon which more than two names for inspector for any one election district

shall appear. The various election inspectors elected, or elected and appointed, for towns, under the provision of existing laws, shall continue to serve as such inspectors until January first, eighteen hundred and ninety-five. On or before the second Tuesday in September next the several election inspectors in the various towns, appointed under the provisions of existing laws, shall each appoint one additional election inspector, who shall serve with the other three election inspectors during their term of office; such appointment shall be made in writing and filed in the office of the town clerk. Such additional inspector shall belong to and be of the same political faith on state and national issues as the political party which at the last preceding town meeting shall have cast next to the highest number of votes, and when possible shall be one of the persons who, at the said town meeting, received next to the highest number of votes for election inspector. The additional inspector so appointed shall be subject to the provisions of existing laws, and of this act."

*Thus amended by Laws 1894, chap. 348.)*

§ 20. **Ballots for full term and vacancies.**—"When the electors of any town are entitled to vote for more than one justice of the peace, assessor, commissioner of excise, commissioner of highways or overseer of the poor, each elector may designate upon his ballot the person intended for a full term and for a vacancy, and if there are two vacancies, they may be designated as the longer and the shorter vacancy; and if three vacancies, the longer, shorter and shortest vacancy, and each person having the greatest number of votes with reference to each designation, shall be deemed duly elected for the term or vacancy designated. If ballots are voted without designation, the first name on the ballot shall be deemed as intended for the full term of the office voted for, the second name for the longer vacancy, the third name for the shorter vacancy and the fourth name for the shortest vacancy. The provisions of this section shall apply to new towns erected; and officers to be elected in such towns, except for a full term, shall be deemed elected to fill vacancies."

§ 21. **Justices in new towns.**—"If there be one or more

### 302 TOWN MEETINGS, ELECTION AND TENURE OF OFFICERS.

justices of the peace residing in a new town, when erected, they shall be deemed justices of the peace thereof, and shall hold their offices according to their respective classes; and only so many shall be elected as shall be necessary to complete the number of four for the town."

§ 22. **When more than four justices may hold office.**—"If by the erection of a new town, or the annexation of a part of one town to another, there shall at any time be more than four justices of the peace residing in any town, they shall hold and exercise their offices in the town in which they reside, according to their classes respectively; but on the expiration of the term of office of two or more justices, being in the same class, only one person shall be elected to fill the vacancy in that class. Whenever by the erection of a new town, or the annexation of a part of one town to another, any town shall be deprived of one or more justices of the peace, by their residences being within the part set off, the inhabitants of such town shall, at its next annual town meeting, supply the vacancy so produced in the classes to which such justices belong."

§ 23. **Fence viewers.**—"The assessors and commissioners of highways elected in every town shall, by virtue of their offices, be fence viewers of their town."

§ 24. **Powers of annual town meetings.**—"The electors of each town may, at their annual town meeting:

"1. Determine what number of constables, not exceeding five, and pound-masters shall be chosen in their town for the then ensuing year;

"2. Elect such town officers as may be required to be chosen;

"3. Direct the prosecution or defense of all actions and proceeding in which their town is interested, and the raising of such sum therefor as they may deem necessary;

"4. Take measures and give directions for the exercise of their corporate powers;

"5. Make provisions and allow rewards for the destruction of noxious weeds and animals, as they may deem necessary, and raise money therefor;

"6. Establish and maintain pounds at such places within their town as may be convenient ;

"7. Direct public nuisances in their town, affecting the security of life and health, to be changed, abated or removed, and raise a sum of money sufficient to pay the expense thereof ;

"8. Make from time to time such prudential rules and regulations, as they may think proper, for the better improving of all lands owned by their town, in its corporate capacity, whether commons or otherwise ; for maintaining and amending partition or other fences around or within the same, and directing the time and manner of using such land ;

"9. Make like rules and regulations for ascertaining the sufficiency of all fences in such town and for impounding animals ; impose such penalties on persons offending against any rule or regulation established by their town, excepting such as relate to the keeping and maintaining of fences, as they may think proper, not exceeding ten dollars for each offense, and apply the same, when recovered, in such manner as they may think most conducive to the interests of their town ;

"10. In towns bound to support their own poor, direct such sum to be raised, as they may deem necessary, for such purpose, and to defray any charges that may exist against the overseers of the poor in their town ;

"11. Determine any other question lawfully submitted to them ;

"Every order or direction, and all rules and regulations made by any town meeting, shall remain in force until the same shall be altered or repealed at some subsequent town meeting."

§ 25. **Special town meetings.**—"Special town meetings shall also be held whenever twenty-five taxpayers upon the last town assessment-roll shall, by written application addressed to the town clerk, require a special town meeting to be called, for the purpose of raising money for the support of the poor ; or to vote upon the question of raising and appropriating money for the construction and maintenance of any bridges which the town may be authorized by

### 304 TOWN MEETINGS, ELECTION AND TENURE OF OFFICERS.

law to erect or maintain ; or for the purpose of determining in regard to the prosecution or defense of actions, or the raising of money therefor ; or to vote upon any proposition which might have been determined by the electors of the town at the last annual town meeting, but was not acted upon thereat ; or to vote upon or determine any question, proposition or resolution which may lawfully be voted upon or determined at a special town meeting. Special town meetings may also be held upon the like application of the supervisor, commissioner of highways, or overseers of the poor, to determine questions pertaining to their respective duties as such officers, and which the electors of a town have a right to determine. An application and notice heretofore made and given for a special town meeting to be hereafter held for a purpose not heretofore authorized by law, but now authorized by law, shall be as valid and of the same force and effect as if such purpose had been authorized by law at the time of such application and notice." (*Thus amended by Laws 1894, chap. 280.*)

§ 26. **Notices of town meetings.**—"No previous notice need be given of the annual town meetings ; but the town clerk shall, at least ten days before the holding of any special town meeting cause notice thereof under his hand, to be posted conspicuously in at least four of the most public places in the town ; which notices shall specify the time, place and purposes of the meeting."

§ 27. **Presiding officers of town meetings.**—"The justices of the peace of each town shall attend every town meeting held therein, and such of them as shall be present, shall preside at such meeting, and see that the same is orderly and regularly conducted, and shall have the like authority to preserve order, to enforce obedience and to commit for disorderly conduct, as is possessed by the board of inspectors at a general election. If there be no justice of the peace present at such meeting, then such person as shall be chosen for that purpose by the electors present, shall preside and shall possess the like powers as the justice ; such person appointed shall take the constitutional oath of office, before entering upon his duties as such presiding officer."

§ 28. **Clerk of meeting.**—“The town clerk last before elected or appointed, or, if he be absent, such person as shall be chosen by the electors present, shall be the clerk of the town meeting, and shall keep faithful minutes of its proceedings, in which he shall enter at length every order or resolution, and all rules and regulations made by such meeting; such person chosen by the electors present shall take the constitutional oath of office before entering upon his duties as such clerk.”

§ 29. **Duration of town meeting.**—“Town meetings shall be kept open for the purposes of voting in the day-time only, between the rising and setting of the sun, and, if necessary, may be continued by a vote of the meeting during the next day, and no longer, and be adjourned to another place not more than one-fourth of a mile from the place where it was appointed.”

§ 30. **Challenges.**—“If any person offering to vote at any town meeting or upon any question arising at such town meeting shall be challenged as unqualified, the presiding officers shall proceed thereupon in the manner prescribed in the general election law when challenges are made, which law, with its penalties, is made applicable thereto, and no person whose vote shall have been received upon such challenge shall be again challenged upon any other question arising at the same town meeting.”

§ 31. **Minutes of proceedings.**—“The poll-list and minutes of the proceedings of every town meeting, subscribed by the clerk of such meeting, and by the officers presiding, shall be filed in the office of the town clerk within two days after such meeting and there preserved.”

§ 32. **Transaction of business not requiring a ballot.**—The business of the towns which requires a vote of the people otherwise than by ballot shall be commenced at twelve o'clock noon of the day of the annual town meeting and completed without adjournment. No question involving the expenditure of money shall be introduced after two o'clock in the afternoon of the same day. All questions upon motion made at town meetings shall be determined by the majority

### 306 TOWN MEETINGS, ELECTION AND TENURE OF OFFICERS.

of the electors voting, and the officers presiding at such meeting shall ascertain and declare the result of the votes upon each question."

§ 33. **Votes to expend over five hundred dollars.**—"All votes in town meetings upon any proposition to raise or appropriate money or incur any town liability exceeding five hundred dollars shall be by ballot; if five hundred dollars or less may be viva voce, unless ballot is required by the law authorizing the expenditure."

§ 34. **Notice of propositions to be determined by ballot.**—"No proposition or other matter than the election of officers, shall be voted upon by ballot at any town meeting, unless the town officers or other persons entitled to demand a vote of the electors of the town thereon, shall, at least twenty days before the town meeting, file with the town clerk a written application, plainly stating the question they desire to have voted upon, and requesting a vote thereon at such town meeting. When town officers, as such, make the application for a vote to raise money for purposes pertaining to their duties, they shall file with their application a statement of their account to date, with the facts and circumstances which, in their opinion, make the appropriation applied for necessary, and their estimation of the sum necessary for the purpose stated, which statement may be examined by any elector of the town, and shall be publicly read by the town clerk at the meeting when and where the vote is taken, at the request of any elector. The town clerk shall, at the expense of his town, give at least ten days' notice, posted conspicuously in at least four of the most public places in town, of any such proposed question, and that a vote will be taken by ballot at the town meeting mentioned. He shall also, at the expense of his town, provide a ballot box, properly labeled, briefly indicating the question to be voted upon, into which all ballots voted upon the question indicated shall be deposited. He shall also prepare and have at the town meeting a sufficient number of written or printed ballots, both for and against the question to be voted upon, for the use of the electors. The vote shall be canvassed, the result

determined and entered upon the minutes of the meeting, the same as votes given for town officers."

§ 35. **Proclamation of opening and closing polls.**—"Before the electors shall proceed to elect any town officer, proclamation shall be made of the opening of the polls, and proclamation shall in like manner be made of each adjournment and of the opening and closing of the polls until the election is ended."

§ 36. **Erection or discontinuance of pounds.**—"Whenever the electors of any town shall determine at an annual town meeting, to erect one or more pounds therein, and whenever a pound shall now be erected in any town, the same shall be kept under the care and direction of a pound-master, to be elected or appointed for that purpose. The electors of any town may, at annual town meeting, discontinue any pounds therein."

§ 37. **Election of pound-masters.**—"Pound masters may be elected either (1) by ballot; (2) by ayes or noes, or (3) by the rising or dividing of the electors, as the electors may determine."

§ 38. **Balloting.**—"When the electors vote by ballot, all the officers voted for, except commissioners of excise, shall be named in one ballot, which shall contain written or printed, or partly written or partly printed, the names of the persons voted for, and the offices to which such persons are intended to be elected, and shall be delivered to the presiding officers so folded as to conceal the contents, and shall be deposited by such officers in a box, to be constructed, kept and disposed of, as near as may be, in the manner prescribed in the general election law. Commissioners of excise shall be voted for upon a separate ballot, which shall be deposited in a separate box marked 'excise.' When any town shall have within its limits an incorporated village, constituting a separate road district, exempt from the supervision and control of the commissioners of highways of the town, and from payment of any tax for the salary or fees of said commissioners, and from payment of any tax for the opening, erection, maintenance and repair of any highway or bridge of said town, without the limits of said village, no resident of such village



### 308 TOWN MEETINGS, ELECTION AND TENURE OF OFFICERS.

shall vote at any annual or special election in such town for any commissioner of highways for said town, nor for or against any appropriation for the opening, laying out, maintenance, erection or repair, of any highway or bridge in said town without the limits of said village. At the annual elections in such towns, the names of candidates for the office of highway commissioner shall be printed on a different ballot from the one containing the names of candidates for other town offices. Such ballots shall be indorsed 'commissioner of highways,' and shall be deposited, when voted, in a separate ballot-box, which also shall be marked 'commissioner of highways.' Such ballots and ballot-box shall be furnished by the officers now charged by law with that duty at town elections. A poll-list shall be kept by the clerk of the meeting on which shall be entered the name of each person voting by ballot." (*Thus amended by Laws 1895, chap. 262.*)

§ 39. **Canvass of votes.**—"At the close of the polls at any town meeting, the canvassers shall proceed to canvass the votes publicly at the place where the meeting was held. Before the ballots are opened they shall be counted and compared with the poll-list, and the like proceedings shall be had as to ballots folded together, and difference in number as are prescribed in the general election law. The result of the canvass shall be read by the clerk to the persons there assembled, which shall be notice of the election to all voters upon the poll-list. The clerk shall also enter the result at length in the minutes of the proceedings of the meeting kept by him, and shall, within ten days thereafter, transmit to any person elected to a town office, whose name is not on the poll-list as a voter, a notice of his election."

§ 40. **Town meetings in election districts.**—"The electors of a town may determine by ballot at an annual or special town meeting on the written application of twenty-five electors, that town meetings shall thereafter be held in the several election districts of their town, to be therein conducted by the inspectors of election thereof, instead of the justices of the peace of the town; or may authorize the town board to divide such town into two or more joint election districts, as

provided in this section. The town board of any town which has been so authorized may divide such town into two or more joint election districts, for the purpose of holding town meetings therein, but such districts shall be constituted by combining the election districts in such town. If the town board of any town shall divide such town into joint election districts in pursuance of this section, such board shall select from the inspectors of election for such town three inspectors residing therein, not more than two of whom shall belong to the same political party, for each of such election districts as so constituted. Such inspectors shall act at the next town meeting held in such districts thereafter. At the first town meeting held in such districts and annually thereafter, there shall be elected in each of such districts in the same manner, and with the same qualifications as inspectors are elected for a general election, three inspectors of election for such district. If a town shall hold its town meeting in more than one district, the inspectors of each of such districts shall appoint one poll clerk, and in the conduct of such meetings they shall have the same powers and duties as the justices of the peace and town clerk have at the annual town meetings presided over by them. No town officer shall be required to make or render any report, statement or abstract at a town meeting when held in separate or joint election districts. At the close of the polls the inspectors shall forthwith publicly canvass the ballot cast, and, without postponement or adjournment, make a full and true statement of the whole number so cast for each and every candidate for an office allotted for, and of the whole number of votes for and against every question or proposition voted upon at such town meeting; and thereupon immediately destroy the ballots cast. Such statement shall be made in the same manner as statements by such inspectors of the votes cast at general elections, and shall be signed by the inspectors and delivered by one of their number, selected by them, for that purpose, to the justices of the peace and town clerk of the town, who shall convene and receive the same at the office of the town clerk, on the day next following the town

### 310 TOWN MEETINGS, ELECTION AND TENURE OF OFFICERS.

meeting, at ten o'clock in the forenoon. Such justices and clerk shall then and there recanvass such votes from the statements of the inspectors of the several separate or joint election districts so delivered to them, and thereupon appoint in writing additional inspectors of election, and read and enter the result in the same manner as required of them at the close of the canvass of a town meeting presided over by them. When the electors of a town have determined to hold their town meetings in separate or joint districts they may again, upon the written application of twenty-five electors, at an annual town meeting, determine by ballot to return to the former system of holding but one poll at their town meetings, and thereupon their town meetings shall be held at but one polling place in said town, but such changes shall not be made oftener than once in five years." (*Thus amended by Laws 1893, chap. 456.*)

§ 41. **Transaction of business in separate election districts not requiring a ballot.**— "Any proposition to be submitted to and voted upon by the electors of a town at any town meeting, which is not required to be voted upon by ballot, may be submitted to the electors of the town voting in separate or joint election districts of the town meeting, but the vote upon any such proposition shall be taken by a division of the electors present and voting thereon; and the inspectors shall count the number of electors so voting in favor of such proposition, and the number so voting against the same, and shall enter in the statement of the result of the town meeting held in such district a statement of the proposition so voted upon, and the number of votes so cast in favor of and against the same, and certify with the statement that they are required to certify and return to the justices of the peace and town clerk of the town. No such proposition shall be so voted upon unless notice that such vote will be taken has been published by the town clerk, at least one week before the town meeting, in a newspaper published in the town, if any such is published therein, and such notice shall also be posted for the same length of time at the place where the poll of the town meeting is to be held, in each separate or joint

election district, and shall be publicly read by the inspectors to the voters present before any such vote is taken. Any elector of the town may, by a written application filed with the town clerk at least ten days before the town meeting is to be held, require such notice to be given by the town clerk. Every such proposition shall be submitted to a vote, commencing at the hour of twelve, noon, and continuing until all such propositions have been voted upon, and every such proposition shall be submitted to the vote of the electors of the town at the poll of every separate or joint election district in the town." (*Thus amended by Laws 1893, chap. 456.*)

§ 42. **The use of Myer's automatic ballot cabinet at town meetings.**— "Any town may, by a majority vote of the town board, at a meeting thereof, held not less than ten days before the time the annual town meeting thereof is to be held, determine upon, purchase and order the use of one or more of Myer's automatic ballot cabinets at elections of town officers in such town. Until otherwise determined by such town board, such ballot cabinets shall be used for the purpose of voting for the officers to be elected at such election, and for registering and counting the ballots cast thereat. The ballot by which the elector votes in such Myer's automatic ballot cabinet shall be secret, and shall be a cardboard or a paper ticket, which shall contain written or printed, or partly written or printed, the names of the persons for whom the elector intends to vote, and shall designate the office to which each person so named is intended by him to be voted for, and shall not contain any other printed or written device or distinguishing mark, except a heading or caption of its political or party designation, of not exceeding five words, and may be of different colors and contain index hands pointing towards the knobs by which the elector counts and registers his ballot. The town board may make regulations for the use of such ballot cabinets, but such regulations shall require all actions and proceedings of the election officers to be in public and in the presence of watchers who may be appointed by the different political parties or candidates thereof, and shall not be inconsistent with law further than may be necessary

by reason of the use of such ballot cabinets for the purpose of holding elections, counting and canvassing the ballots thereof. At the close of the polls at such election at which such ballot cabinets shall be used, the canvassers shall proceed to ascertain publicly the total number of ballots cast for each candidate for each office, as registered and declared by such ballot cabinet register, and such ascertainment of the result shall be deemed to be the canvassing of the votes cast at such election." (*Added by Laws 1893, chap. 82.*)

## Qualification of Town Officers.

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(Article III, Town Law, Chapter 569, Laws of 1890.)

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§ 50. **Eligibility of town officers.**—" Every elector of the town shall be eligible to any town office, except inspectors of election shall also be able to read or write. But no county treasurer, superintendent of the poor, school commissioner, trustee of a school district, or United States loan commissioner shall be eligible to the office of supervisor of any town or ward in this state."

§ 51. **Oath of office.**—" Every person elected or appointed to any town office, except justice of the peace, shall before he enters on the duties of his office, and within ten days after he shall be notified of his election or appointment, take and subscribe before some officer authorized by law to administer oaths in his county, the constitutional oath of office, and such other oath as may be required by law, which shall be administered and certified by the officer taking the same without reward, and shall within eight days be filed in the office of the town clerk, which shall be deemed an acceptance of the office; and a neglect or omission to take and file such oath, or a neglect to execute and file, within the time required by law, any official bond or undertaking, shall be deemed a refusal to serve, and the office may be filled as in case of vacancy."

§ 52. **Collector's undertaking.**—" Every person elected or appointed to the office of collector, before he enters upon the duties of his office, and within eight days after he receives notice of the amount of taxes to be collected by him, shall execute an undertaking with two or more sureties, to be approved by the supervisor, to the effect that he will well and faithfully execute his duties as collector, pay over all moneys received by him, and account in the manner and within the time provided by law for all taxes upon the assessment-roll of his town delivered to him for the ensuing year, and shall deliver such undertaking to the supervisor of the town."

§ 53. **Filing and lien of collector's undertaking.**—“The supervisor shall, within six days thereafter, file the undertaking, with his approval indorsed thereon, in the office of the county clerk, who shall make an entry thereof, in a book provided for the purpose, in the same manner as judgments are entered of record; and every such undertaking shall be a lien on all the real estate held jointly or severally by the collector or his sureties within the county, at the time of the filing thereof, and shall continue to be such lien, until its condition, together with all costs and charges which may accrue by the prosecution thereof, shall be fully satisfied.”

§ 54. **Constable's undertakings.**—“Every person elected or appointed to the office of constable shall, before he enters on the duties of his office, and within ten days after he shall be notified of his election or appointment, execute in the presence of the supervisor or town clerk of the town, with at least two sufficient sureties, to be approved by such supervisor or town clerk, an undertaking to the effect that such constable and his sureties will pay to each and every person, who may be entitled thereto, all such sums of money as the constable may become liable to pay on account of any execution which shall be delivered to him for collection; and also pay each and every person for any damages which he may sustain from or by any act or thing done by such constable by virtue of his office. The supervisor or town clerk shall indorse on the undertaking his approval of the sureties therein named, and shall cause the same to be filed in the office of the town clerk within ten days thereafter.”

§ 55. **Refusal to serve as overseer of highways or poundmaster.**—“If any person chosen or appointed to the office of overseer of highways or poundmaster shall refuse to serve, he shall forfeit to the town the sum of ten dollars.”

§ 56. **Town officers to administer oaths.**—“Any town officer may administer any necessary oath in any matter or proceeding lawfully before him, or to any paper to be filed with him as such officer.”

§ 57. **Certificate of election of justices.**—“The clerk of every town meeting, at which an election for justice of the peace shall have been had, shall, within ten days thereafter,

transmit to the clerk of his county a certificate of the result of such election under his hand, which shall be presumptive evidence of the facts therein certified."

§ 58. **Justices' undertakings.**—" Every justice of the peace elected or appointed in any of the towns or cities of this state, except the city of New York, and any city whose charter requires such officer to give a bond or undertaking, shall, before he enters upon the duties of his office, execute an undertaking with two sureties to be approved by the supervisor of the town, or the town clerk thereof where the justice of the peace is also supervisor of the town, or the common council of the city in which the justice shall reside, to the effect that he will pay over on demand, to the officer, person or persons entitled to the same, all moneys received by him by virtue of his office, and file the undertaking in the office of the clerk of the city or town in which he resides. Every justice shall also, on or before the fifteenth day of January next succeeding his election, file with the county clerk a certificate of the clerk of the city or town in which he resides, that he has filed such undertaking, and thereupon take before the county clerk his oath of office; but, if elected or appointed to fill a vacancy, at the time existing or in any new town, he shall file such undertaking and certificate and take the oath of office, and enter upon the duties thereof within fifteen days after notice of his election or appointment. No justice of the peace shall take his oath of office until he shall have filed such certificate with the county clerk."

§ 60. **Supervisor's undertaking.**—" Every supervisor hereafter elected or appointed shall, within thirty days after entering upon his office, make and deliver to the town clerk of the town his undertaking, with such sureties as the town board shall prescribe, to the effect that he will well and faithfully discharge his official duties as such supervisor, and that he will well and truly keep, pay over and account for all moneys and property, including, the local school fund, if any, belonging to his town and coming into his hands as such supervisor; and such undertaking shall after its execution, be presented to the town board for their approval as to its form, and the



sufficiency of the sureties therein, and until the same shall be so approved, none of the moneys, books, documents, papers or property of the town shall be turned over or delivered to such supervisor elect."

§ 61. **Undertaking of commissioner of excise.**—" Each commissioner of excise shall, before he enters upon the duties of his office, execute an undertaking to be approved by the supervisor of his town, to the effect that he will pay over to the supervisor of his town, within thirty days after the receipt thereof, all moneys received by him as such commissioner of excise, which undertaking shall be delivered to the supervisor, and by him filed in the office of the town clerk within ten days thereafter."

§ 62. **Undertaking of overseer of the poor.**—" Every person elected or appointed overseer of the poor in any town shall, within ten days after being notified of his election or appointment, execute an undertaking with one or more sureties, to be approved by the supervisor of his town, to the effect that he will faithfully discharge the duties of his office, and will pay according to law all moneys which shall come into his hands as such overseer, which undertaking shall be delivered to the supervisor and filed by him in the office of the town clerk within ten days thereafter."

§ 63. **Undertaking of commissioner of highways.**—" Every commissioner of highways shall, within ten days after notice of his election or appointment, execute an undertaking with two or more sureties, to be approved by the supervisor of his town, to the effect that he will faithfully discharge his duties as such commissioner, and within ten days after the expiration of his term of office, pay over to his successor all moneys remaining in his hands as such commissioner, and render to such successor a true account of all moneys received and paid out by him as such commissioner, which undertaking shall be delivered to the supervisor, and filed by him in the office of the town clerk within ten days thereafter."

§ 64. **Resignation of town officers.**—" Any three justices of the peace of a town may, for sufficient cause shown to them accept the resignation of any town officer of their town; and

whenever they shall accept any such resignation, they shall forthwith give notice thereof to the town clerk of the town."

§ 65. **Filling of vacancies.**— When a vacancy shall occur or exist in any town office, the town board or a majority of them may, by an instrument under their hands and seals, appoint a suitable person to fill the vacancy, and the person appointed, except justices of the peace, shall hold the office until the next annual town meeting. A person so appointed to the office of justice of the peace shall hold the office until the next annual town meeting, unless the appointment shall be made to fill the vacancy of an officer whose term will expire on the thirty-first day of December next thereafter, in which case the term of office of the person so appointed shall expire on the thirty-first day of December next succeeding his appointment. The board making the appointment shall cause the same to be forthwith filed in the office of the town clerk, who shall forthwith give notice to the person appointed. A copy of the appointment of a justice of the peace shall also be filed in the office of the county clerk, before the person appointed shall be authorized to act."

§ 66. **Form of undertaking, and liability thereon.**— "Every undertaking of a town officer, as provided by this chapter or otherwise, must be executed by such officer and his sureties and acknowledged or proven and certified in like manner as deeds to be recorded, and the approval indorsed thereon. The parties executing such undertaking shall be jointly and severally liable, regardless of its form in that respect, for the damages to any person or party by reason of a breach of its terms."

§ 67. **County clerk to report omissions of town officers.**— "The clerk of each county shall make a report to the district attorney of the county, of all omissions by any town officer to make and transmit any returns or certificates, which by law they are required to make to such clerk, and the district attorney shall enforce the penalty, by law imposed upon the delinquent officer."

# School Elections.

(From Consolidated School Law in force July 1, 1896.)

## TITLE VII — ARTICLE 1.

**Of common school district meetings, who are voters, and their powers.**

**SECTION 1. New districts, notice of first meeting.**—Whenever any school district shall be formed, the commissioner or any one or more of the commissioners, within whose district or districts it may be, shall prepare a notice describing such district, and appointing a time and place for the first district meeting, and deliver such notice to a taxable inhabitant of the district.

**§ 2. Service of notice.**—It shall be the duty of such inhabitant to notify every other inhabitant of the district qualified to vote at the meeting, by reading the notice in his hearing, or in case of his absence from home, by leaving a copy thereof, or so much thereof as relates to the time, place and object of the meeting, at the place of his abode, at least six days before the time of the meeting.

**§ 3. May give notice of meeting before time fixed.**—In case such meeting shall not be held, and in the opinion of the commissioner it shall be necessary to hold such meeting, before the time herein fixed for the first annual meeting, he shall deliver another such notice to a taxable inhabitant of the district, who shall serve it as hereinbefore provided.

**§ 4. Special district meeting, when commissioner may call.**—When the clerk and all the trustees of a school district shall have removed from the district, or their office shall be vacant, so that a special meeting can not be called, as herein-after provided, the commissioner may in like manner give notice of, and call a special district meeting.

**§ 5. Penalty for refusal to serve notice.**—Every taxable inhabitant, to whom a notice of any district meeting shall be delivered for service, pursuant to any provisions of this article, who shall refuse or neglect to serve the same, as hereinbe-

fore prescribed, shall forfeit five dollars for the benefit of the district.

§ 6. **Special district meetings.**— A special district meeting shall be held whenever called by the trustees. The notice thereof shall state the purposes for which it is called, and no business shall be transacted at such special meeting, except that which is specified in the notice ; and the district clerk, or, if the office be vacant, or he be sick or absent, or shall refuse to act, a trustee or some taxable inhabitant, by order of the trustees, shall serve the notice upon each inhabitant of the district qualified to vote at district meetings, at least five days before the day of the meeting, in the manner prescribed in the second section of this title. But the inhabitants of any district may, at any annual meeting, adopt a resolution prescribing some other mode of giving notice of special meetings, which resolution and the mode prescribed thereby shall continue in force until rescinded or modified at some subsequent annual meeting.

§ 7. **Proceedings, when illegal.**— The proceedings of no district meeting, annual or special, shall be held illegal for want of a due notice to all the persons qualified to vote thereat, unless it shall appear that the omission to give such notice was willful and fraudulent.


§ 8. **Annual school district meeting.**— The annual meeting of each school district shall be held on the first Tuesday of August in each year, and, unless the hour and place thereof shall have been fixed by a vote of a previous district meeting, the same shall be held in the school-house at seven-thirty o'clock in the evening. If a district possesses more than one school-house, it shall be held in the one usually employed for that purpose, unless the trustees designate another. If the district possesses no school-house, or if the school-house shall be no longer accessible, then the annual meeting shall be held at such place as the trustees, or, if there be no trustee, the clerk, shall designate in the notice.

§ 9. **Proceedings, when annual meeting not held.**— Whenever the time for holding the annual meeting in school districts shall pass without such meeting being held in any district, a special meeting shall thereafter be called by the trus-

tees or by the clerk of such district for the purpose of transacting the business of the annual meeting ; and if no such meeting be called by the trustees or the clerk within twenty days after such time shall have passed, the school commissioner of the commissioner district in which said school district is situated, or the superintendent of public instruction may order any inhabitant of such district to give notice of such meeting in the manner provided in the second section of this title, and the officers of the district shall make to such meeting the reports required to be made at the annual meeting, subject to the same penalty in the case of neglect ; and the officers elected at such meeting shall hold their respective offices only until the next annual meeting and until their successors are elected and shall have qualified as in this act provided.

§ 10. **Duty of inhabitants upon call of meeting.**— Whenever any district meeting shall be duly called, it shall be the duty of the inhabitants qualified to vote thereat, to assemble at the time and place fixed for the meeting.

§ 11. **Voters, their qualifications.**— Every person of full age residing in any school district and who has resided therein for a period of thirty days next preceding any annual or special meeting held therein, and a citizen of the United States, who owns or hires, or is in the possession under a contract of purchase, of real property in such school district liable to taxation for school purposes ; and every such resident of such district, who is a citizen of the United States, of twenty-one years of age, and is the parent of a child or children of school age, some one or more of whom shall have attended the district school in said district for a period of at least eight weeks within one year preceding such school meeting ; and every such person not being the parent, who shall have permanently residing with him or her a child or children of school age, some one or more of whom shall have attended the district school in said district for a period of at least eight weeks within one year preceding such school meeting ; and every such resident and citizen as aforesaid, who owns any personal property, assessed on the last preceding assessment-roll of the town, exceeding fifty dollars in value, exclusive of



such as is exempt from execution, and no other shall be entitled to vote at any school meeting held in such district, for all school district officers and upon all matters which may be brought before said meeting. No person shall be deemed to be ineligible to vote at any such school district meeting, by reason of sex, who has one or more of the other qualifications required by this section.

§ 12. **Challenges.**— If any person offering to vote at any school district meeting shall be challenged as unqualified, by any legal voter in such district, the chairman presiding at such meeting shall require the person so offering, to make the following declaration: "I do declare and affirm that I am, and have been, for the thirty days last past, an actual resident of this school district and that I am qualified to vote at this meeting." And every person making such declaration shall be permitted to vote on all questions proposed at such meeting; but if any person shall refuse to make such declaration, his or her vote shall be rejected.

§ 13. **Illegal voting, etc.**— Any person who shall willfully make a false declaration of his or her right to vote at any such school meeting, after his or her right to vote thereat has been challenged, shall be deemed guilty of a misdemeanor. And any person not qualified to vote at any such meeting, who shall vote thereat, shall thereby forfeit five dollars, to be sued for by the supervisor for the benefit of the common schools of the town.

§ 14. **Powers of district meeting.**— The inhabitants entitled to vote, when duly assembled in any district meeting, shall have power, by a majority of the votes of those present :

1. To appoint a chairman for the time being.
2. If the district clerk be absent to appoint a clerk for the time.
3. To adjourn from time to time as occasion may require.
4. To elect one or three trustees as hereinafter provided, a district clerk and a district collector, and in any district which shall so determine, as hereinafter provided, to elect a treasurer, at their first meeting, and so often as such offices or any of them become vacated, except as hereinafter provided. All district officers shall be elected by ballot. At elections of

district officers, the trustees shall provide a suitable ballot-box. Two inspectors of election shall be appointed in such manner as the meeting shall determine, who shall receive the votes cast, and canvass the same, and announce the result of the ballot to the chairman. A poll-list containing the name of every person whose vote shall be received shall be kept by the district clerk, or the clerk for the time of the meeting. The ballots shall be written or printed, or partly written and partly printed, containing the name of the person voted for and designating the office for which each is voted for. The chairman shall declare to the meeting the result of each ballot, as announced to him by the inspectors, and the persons having the majority of votes, respectively, for the several offices, shall be elected.

5. At the first meeting, or at any subsequent annual meeting, or at any special meeting duly called for that purpose, the qualified voters of any school district are authorized to adopt by a vote of a majority of such voters present and voting, to be ascertained by taking and recording the ayes and noes, a resolution to elect a treasurer of said district, who shall be the custodian of all moneys belonging to said district, and the disbursing officer of such moneys. If such resolution shall be adopted, such voters shall thereupon elect by ballot a treasurer for said district. No person shall be eligible to the office of treasurer unless he is a qualified voter in, and a taxable inhabitant of said district. Any person elected treasurer at any meeting other than an annual meeting, shall hold office until the next annual meeting after such election, and until his successor shall be elected or appointed, and thereafter a treasurer shall be elected at each annual meeting for the term of one year.

6. To fix the amount in which the collector and treasurer shall give bonds for the due and faithful performance of the duties of their offices.

7. To designate a site for a school-house, or, with the consent of the commissioner or commissioners within whose district or districts the school-house lies, to designate sites for two or more school-houses for the district. Such designation of a site or sites for a school-house can be made only at a

special meeting of the district, duly called for such purpose by a written resolution in which the proposed site shall be described by metes and bounds, and which resolution must receive the assent of a majority of the qualified voters present and voting, to be ascertained by taking and recording the ayes and noes.

8. To vote a tax upon the taxable property of the district to purchase, lease and improve such site or sites or an addition to such site or sites; to hire or purchase rooms or buildings for school-rooms or school-houses, or to build school-houses; and to keep in repair and furnish the same with necessary fuel, furniture and appendages.

9. To vote a tax not exceeding twenty-five dollars in any one year, for the purchase of maps, globes, blackboards and other school apparatus, and for the purchase of text-books and other school necessities for the use of poor scholars of the district.

10. To vote a tax for the establishment of a school library and the maintenance thereof, or for the support of any school library already owned by said district, and for the purchase of books therefor, and such sum as they may deem necessary for the purchase of a book-case.

11. To vote a tax to supply a deficiency in any former tax arising from such tax, being in whole or in part, uncollectible.

12. To authorize the trustees to cause the school-house or school-houses, and their furniture, appendages and school apparatus to be insured by any insurance company created by or under the laws of this state.

13. To alter, repeal and modify their proceedings, from time to time, as occasion may require.

14. To vote a tax for the purchase of a book for the purpose of recording their proceedings.

15. To vote a tax to replace moneys of the district, lost or embezzled by district officers; and to pay the reasonable expenses incurred by district officers in defending suits or appeals brought against them for their official acts, or in prosecuting suits or appeals by direction of the district against other parties.



16. To vote a tax to pay whatever deficiency there may be in teachers' wages after the public money apportioned to the district shall have been applied thereto; but if the inhabitants shall neglect or refuse to vote a tax for this purpose, or if they shall vote a tax which shall prove insufficient to cover such deficiency, then the trustees are authorized, and it is hereby made their duty, to raise, by direct tax, any reasonable sum that may be necessary to pay the balance of teachers' wages remaining unpaid, the same as if such tax had been authorized by a vote of the inhabitants.

17. To vote a tax to pay and satisfy of record any judgment or judgments of a competent court which may have been or shall hereafter be obtained in an action against the trustees of the district for unpaid teachers' wages against the trustees of the district, where the time to appeal from said judgment or judgments shall have lapsed, or there shall be no intent to appeal on the part of such district, or the said judgment or judgments is or are or shall be of the court of last resort; but if the inhabitants shall neglect or refuse to vote a tax for this purpose, or, if they vote a tax which shall prove insufficient to fully satisfy said judgment or judgments, then the trustees are authorized and it is hereby made their duty to raise by district tax the amount of said judgment or judgments, or the deficiency which may exist in any tax voted by said inhabitants to pay said judgment or judgments, the same as if such tax had been authorized by a vote of the inhabitants, and the trustees are hereby authorized, and it is hereby made their duty forthwith, after the expiration of thirty days from notice of any judgment or judgments having been entered against the district or the trustees thereof for unpaid teachers' wages, to call a meeting of the inhabitants of said district, who shall have power, as aforesaid, to vote a tax to pay said judgment or judgments; and in case they refuse or neglect to do so, the trustees are authorized, and it is hereby made their duty, unless said judgment or judgments are appealed from, to raise by district tax the amount of said judgment or judgments as hereinbefore provided.

18. In all propositions arising at said district meetings, involving the expenditure of money, or authorizing the levy of

a tax or taxes, the vote thereon shall be by ballot, or ascertained by taking and recording the ayes and noes of such qualified voters attending and voting at such district meetings.

\* 19. Whenever any district shall have contracted with the school authorities of any city or village or other school district for the education therein of the pupils residing in such common school districts, the inhabitants thereof entitled to vote are authorized to provide, by tax or otherwise, for the conveyance of the pupils residing therein to the schools of such city, village or district with which such contract shall have been made, and the trustees thereof may contract for such conveyance when so authorized in accordance with such rules and regulations as they may establish.

§ 15. **Election of officers in districts over three hundred.** — In school districts in which the number of children of school age exceeds three hundred, as shown by the last annual report of the trustees to the school commissioner, the qualified voters of any such district, at any annual meeting thereof, may by the vote of a majority of those present and voting, to be ascertained by taking and recording the ayes and noes, determine that the election of officers of said district shall be held on the Wednesday next following the day designated by law for holding the annual meeting of said district. Until such determination shall be changed, such election shall be held on the Wednesday next following the day on which such annual meeting of such district shall be held in each year, between the hours of twelve o'clock noon and four o'clock in the afternoon, at the principal school-house in such district, or such other suitable place as the trustees may designate. When the place of holding such election is other than at the principal school-house, the trustees shall give notice thereof by the publication of such notice, at least, one week before the time of holding such election, in some newspaper published in the district, or by posting the same in five conspicuous places in the district. The trustees may, by resolution, extend the time of holding the election from four o'clock until sunset. The trustees shall act as inspectors of election, and if a majority

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\* Added by section 5, chapter 264, Laws of 1896.

of the trustees shall not be present at the time for opening the polls, those of them in attendance may appoint any of the legal voters of the district present to act as inspectors in place of the absent trustees; and if none of the trustees shall be present at the time of opening the polls, the legal voters present may choose three of their number to act as inspectors. If any such district shall have but one trustee, the legal voters of the district present at the time of opening the polls, may choose two of their number to act with said trustee as inspectors. The district clerk shall attend at the election, and record in a book to be provided for that purpose, the name of each elector as he or she deposits his or her ballot. If the district clerk shall be absent, or shall be unable or refuse to act, the trustees or inspectors of election shall appoint some person who is a legal voter in the district to act in his place. Any clerk or acting clerk at such election who shall neglect or refuse to record the name of a person whose ballot is received by the inspectors, shall be liable to a fine of twenty-five dollars, to be sued for by the supervisor of the town. If any person offering to vote at such election shall be challenged as unqualified, by any legal voter, the chairman of the inspectors shall require the person so offering to vote to make the following declaration: "I do declare and affirm that I am and have been for the thirty days last past an actual resident of this school district, and that I am legally qualified to vote at this election." Every person making such declaration shall be permitted to vote; but if any person shall refuse to make such declaration, his or her ballot shall not be received by the inspectors. Any person who, upon being so challenged, shall willfully make a false declaration of his or her right to vote at such election, is guilty of a misdemeanor. Any person who shall vote at such election, not being duly qualified, shall, though not challenged, forfeit the sum of ten dollars, to be sued for by the supervisor of the town for the benefit of the school or schools of the district. The trustees of the district shall, at the expense of the district, provide a suitable box in which the ballots shall be deposited as they are received. Such ballots shall contain the names of the persons voted for, and shall designate the office for which each one is voted, and such ballots may be either written or

printed, or partly written and partly printed. The inspectors, immediately after the close of the polls shall proceed to canvass the votes. They shall first count the ballots to determine if they tally with the number of names recorded by the clerk. If they exceed that number, enough ballots shall be withdrawn to make them correspond. Said inspectors shall count the votes and announce the result. The person or persons having a majority of the votes respectively for the several offices shall be elected, and the clerk shall record the result of such ballot and election as announced by the inspectors. Whenever the time for holding such election as aforesaid shall pass without such election being held in any such district, a special election shall be called by the trustees or clerk, and if no such election be called by the trustees or clerk within twenty days after such time shall have passed, the school commissioner or the superintendent of public instruction may order an inhabitant of such district to give notice of such election in the manner provided in the second section of this title; and the officials elected at such special election shall hold their respective offices only until the next annual election, and until their successors are elected and shall have qualified, as in this act provided. All disputes concerning the validity of any such election, or of any votes cast thereat, or of any of the acts of the inspectors or clerk, shall be referred to the superintendent of public instruction, whose decision in the matter shall be final. Such superintendent may, in his discretion, order a new election in any district.

The foregoing provision shall not apply to school districts in cities, nor to union free school districts whose limits correspond with those of an incorporated village, nor to any school district organized under a special act of the legislature, in which the time, manner and form of the election of district officers shall be different from that prescribed for the election of officers in common school districts, organized under the general law, nor to any of the school districts in the counties of Richmond, Suffolk, Chenango, Westchester, Warren, Erie and St. Lawrence.

**TITLE VIII—ARTICLE 2.**

**Of the qualifications of voters in union free school districts, and of meetings of such voters and their powers.**

\* § 8. **Qualifications of voters.**— Every person of full age, residing in any union free school district, and who has resided therein for a period of thirty days next preceding any annual or special meeting held therein, and a citizen of the United States, who owns, or hires, or is in the possession under a contract of purchase, of real property in such school district liable to taxation for school purposes; and every such resident of such district who is a citizen of the United States of twenty-one years of age, and is the parent of a child or children of school age, some one or more of whom shall have attended the district school in said district for a period of at least eight weeks within one year preceding such school meeting; and every such person not being the parent, who shall have permanently residing with him or her a child or children of school age, some one or more of whom shall have attended the district school in said district for a period of at least eight weeks within one year preceding such school meeting; and every such resident and citizen as aforesaid, who owns any personal property assessed on the last preceding assessment-roll of the town, exceeding fifty dollars in value exclusive of such as is exempt from execution, and no other, shall be entitled to vote at any school meeting held in said district, under and pursuant to the provisions of this title. No person shall be deemed to be ineligible to vote at any such school district meeting by reason of sex, who has one or more of the qualifications required by this section. No person shall be eligible to hold any school district office in any union free school district unless he or she is a qualified voter in such district, and is able to read and write. Not more than one member of a family shall be a member of the same board of education in any school district.

§ 9. **Levy of tax for school purposes.**— The corporate authorities of any incorporated village or city, in which any such union free school shall be established, shall have power, and it shall be their duty, to raise, from time to time, by tax,

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\* As amended by section 14, chapter 264, Laws of 1896.

to be levied upon the real and personal property in said city or village, as by law provided for the defraying of the expenses of its municipal government, such sum or sums as the board of education established therein shall declare necessary for teachers' wages and the ordinary contingent expenses of supporting the schools of said district. The sums so declared necessary shall be set forth in a detailed statement in writing, addressed to the corporate authorities by the board of education, giving the various purposes of anticipated expenditure, and the amount necessary for each; and the said corporate authorities shall have no power to withhold the sums so declared to be necessary; and such corporate authorities as aforesaid shall have power, and it shall be their duty to raise, from time to time, by tax as aforesaid, any such further sum or sums to be set forth in a detailed statement in writing, addressed to the corporate authorities by the board of education, giving the various purposes of the proposed expenditure, and the amount necessary for each which may have been or which may hereafter be authorized by a majority of the voters of such union free school district present and voting at any special district meeting duly convened, for making additions, alterations, or improvements to or on the sites or structures belonging to the district, or for the purchase of other sites or structures, or for a change of sites, or for the erection of new buildings, or for buying apparatus or fixtures, or for such other purpose relating to the support and welfare of the school as they may, by resolution, approve; and they may direct the moneys so voted to be levied in one sum, or by installments, but no addition to or change of site or purchase of a new site or tax for the purchase of any new site or structure, or for the purchase of an addition to the site of any school-house, or for building any new school-house, or for the erection of an addition to any school-house already built, shall be voted at any such meeting unless a notice by the board of education stating that such tax will be proposed, and specifying the amount and object thereof shall have been published once in each week for the four weeks next preceding such district meeting, in two newspapers, if there shall be two, or in one newspaper if there shall be but one, published in such district. But if no newspaper

shall then be published therein, the said notice shall be posted up in at least twenty of the most public places in said district twenty days before the time of such meeting. No vote to raise money shall be rescinded, nor the amount thereof be reduced at any subsequent meeting, unless the same be done within ten days after the same shall have been first voted. For the purpose of giving effect to these provisions, the corporate authorities are hereby authorized, whenever a tax shall have been voted to be collected in installments for the purpose of building a new school-house, or building an addition to a school-house, or making additions, alterations or improvements to buildings or structures belonging to the district, or for the purchase of a new site, or for an addition to a site, to borrow so much of the sum voted as may be necessary, at a rate of interest not exceeding six per cent, and to issue bonds or other evidences of indebtedness therefor, which shall be a charge upon the district, and be paid at maturity, and which shall not be sold below par. Said bonds or other evidences of indebtedness shall be prepared by the board of education, signed by the president and secretary thereof, and delivered to the treasurer of the incorporated village or city, who shall countersign the same, and give due notice of the time and place of the sale of such bonds, at least ten days prior thereto, by publication twice in two newspapers, if there shall be two, or in one newspaper, if there shall be but one, published in such district. But if no newspaper shall then be published therein, the said notice shall be posted up in at least ten of the most public places in said district ten days before the day of sale. The proceeds of the sale of said bonds shall be paid into the treasury of said incorporated village or city, to the credit of the board of education of such district.

**\* § 10. Powers of annual and special meetings.** — A majority of the voters of any union free school district, other than those whose limits correspond with an incorporated city or village, present at any annual or special district meeting, duly convened, may authorize such acts and vote such taxes as they shall deem expedient for making additions, alterations or improvements to or in the sites or structures belong-

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\* As amended by section 15, chapter 264, Laws of 1896.

ing to the district, or for the purchase of other sites or structures, or for a change of sites, or for the erection of new buildings, or for buying apparatus, or fixtures, or for paying the wages of teachers and the necessary expenses of the school, or for such other purpose relating to the support and welfare of the school as they may, by resolution, approve; the designation of a site or sites by the district meeting shall be by written resolution containing a description thereof by metes and bounds, and such resolution must receive the assent of a majority of the qualified voters present and voting at said meeting, to be ascertained by taking and recording the ayes and noes. On all propositions arising at said meeting involving the expenditure of money, or authorizing the levy of a tax or taxes in one sum or by installments, the vote thereon shall be by ballot, or ascertained by taking and recording the ayes and noes of such qualified voters attending and voting at such meetings; and they may direct the moneys so voted to be levied in one sum, or by installments, but no addition to or change of site or purchase of a new site or tax for the purchase of any new site or structure, or for the purchase of an addition to the site of any school-house, or for building any new school-house, or for the erection of an addition to any school-house already built, shall be voted at any such meeting unless a notice by the board of education stating that such tax will be proposed, and specifying the amount and object thereof, shall have been published once in each week for the four weeks next preceding such district meeting, in two newspapers if there shall be two, or in one newspaper if there shall be but one, published in such district. But if no newspaper shall then be published therein, the said notice shall be posted in at least twenty of the most public places in said district twenty days before the time of such meeting. And whenever a tax for any of the objects hereinbefore specified shall be legally voted the boards of education shall make out their tax-list, and attach their warrant thereto, in the manner provided in article seven of title seven of this act, for the collection of school district taxes, and shall cause such taxes or such installments to be collected at such times as they shall



become due. No vote to raise money shall be rescinded, nor the amount thereof be reduced at any subsequent meeting, unless it be an adjourned meeting or a meeting called by regular and legal notice, which shall specify the proposed action, and at which the vote upon said proposed reduction or rescinding shall be taken by ballot or by taking and recording the ayes and noes of the qualified voters attending and voting thereat. For the purpose of giving effect to these provisions, trustees or boards of education are hereby authorized, whenever a tax shall have been voted to be collected in installments for the purpose of building a new school-house or building an addition to a school-house, or making additions, alterations or improvements to buildings or structures belonging to the district, or for the purchase of a new site, or for an addition to a site, to borrow so much of the sum voted as may be necessary at a rate of interest not exceeding six per centum, and to issue bonds or other evidences of indebtedness therefor, which shall be a charge upon the district, and be paid at maturity, and which shall not be sold below par; due notice of the time and place of the sale of such bonds shall be given by the board of education at least ten days prior thereto by publication twice in two newspapers, if there be two, or one newspaper if there be but one published in such district. But if no newspaper shall then be published therein, the said notice shall be posted in at least ten of the most public places in said district ten days before the sale. It shall be the duty of the trustees or the persons having charge of the issue or payment of such indebtedness, to transmit a statement thereof to the clerk of the board of supervisors of the county in which such indebtedness is created, annually, on or before the first day of November.

§ 11. **Tax for teachers' wages.**— All moneys required to pay teachers' wages in a union free school or in the academical department thereof, after the due application of the school moneys thereto, shall be raised by tax.

§ 12. Every union free school district shall, for all the purposes of the apportionment and distribution of school moneys, be regarded and recognized as a school district.

**TITLE VIII — ARTICLE 3.**

**Of annual and special meetings, and of election of members of boards of education and clerks in districts where the number of children exceeds three hundred.**

**§ 13. Annual and special meetings in union free school districts.**— 1. In union free school districts other than those whose limits correspond with those of any incorporated village or city, the annual school meeting shall be held on the first Tuesday of August. The boards of education shall have power to call special meeting of the inhabitants of their respective districts whenever they shall deem it necessary and proper, in the manner prescribed in section ten of this title, and shall in like manner give notice of the time and place of holding the annual school district meeting. The proceedings of any special meeting shall not be held to be illegal for want of a due notice to all persons qualified to vote thereat, unless it shall appear that the omission to give such notice was willful and fraudulent. The annual meeting of the board of education of every such union free school district shall be held on the Tuesday next after the annual school district meeting therein.

2. In union free school districts whose limits correspond with those of any incorporated village or city, the boards of education shall have power to call special meetings of the inhabitants of their respective districts for the purposes mentioned in section nine of this title, in the manner prescribed in said section nine. The proceedings of any special meeting shall not be held to be illegal for want of due notice to all persons qualified to vote thereat unless it shall appear that the omission to give such notice was willful and fraudulent. The annual meeting of the board of education of every such union free school district shall be held on the Tuesday next after the canvass and declaration of the election of the members of said board at the annual charter election of the village or city.

**\*§ 14. Election of board and clerk in districts over 300.**— In union free school districts other than those whose limits correspond with those of an incorporated village or city, in which the number of children of school age exceeds three

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\* As amended by section 1, chapter 853, Laws of 1895.

hundred, as shown by the last annual report of the board of education to the school commissioner, the qualified voters of any such district may by a vote of a majority of those present and voting, at any annual meeting, or at any duly called special meeting, to be ascertained by taking and recording the ayes and noes, determine that the election of the members of the board of education and clerk of said district, shall be held on the Wednesday next following the day designated by law for holding the annual meeting of said district. Until such determination shall be changed, such election shall be held on the Wednesday next following the day on which such annual meeting of such district shall be held, in each year, between the hours of twelve o'clock noon, and four o'clock in the afternoon at the principal school-house in the district, or at such other suitable place as the trustees may designate. When the place of holding such election is other than at the principal school-house, the trustees shall give notice thereof by the publication of such notice, at least one week before the time of holding such election, in some newspaper published in the district, or by posting the same in three conspicuous places in the district. The trustees may, by resolution, extend the time of holding the election from four o'clock until sunset. The board of education, or such of them as may be present, shall act as inspectors of election. If a majority of such board shall not be present at the time of opening the polls, those members of the board in attendance may appoint any of the legal voters of the district present, to act as inspectors in place of the absent trustees; and if none of the board of education shall be present at the time of opening the polls, the legal voters present may choose three of their number to act as inspectors. The district clerk, or the clerk of the board of education, as the case may be, shall attend at the election and record in a book to be provided for that purpose, the name of each elector as he or she deposits his or her ballot. If such district clerk, or clerk of the board of education shall be absent, or shall be unable or refuse to act, the board of education or inspectors of election shall appoint some person who is a legal voter in the district to act in his place. Any clerk or acting clerk who shall neglect or

refuse to record the name of a person whose ballot is received by the inspectors, shall be liable to a fine of twenty-five dollars, to be sued for by the supervisor of the town. If any person offering to vote at any such election shall be challenged as unqualified by any legal voter, the chairman of the inspectors shall require the person so offering to vote to make the following declaration: "I do declare and affirm that I am and have been for the thirty days last past an actual resident of this school district, and that I am legally qualified to vote at this election." And every person making such declaration shall be permitted to vote; but if any person shall refuse to make such declaration his or her ballot shall not be received by the inspectors. Any person who upon being so challenged shall willfully make a false declaration of his or her right to vote at such election, is guilty of a misdemeanor. Any person who shall vote at such election, not being duly qualified, shall, though not challenged, forfeit the sum of ten dollars, to be sued for by the supervisor of the town for the benefit of the school or schools of the district. The board of education shall, at the expense of the district, provide a suitable box in which the ballots shall be deposited as they are received. Such ballots shall contain the names of the persons voted for, and shall designate the office for which each one is voted. The ballots may be either written or printed, or partly written and partly printed. The inspectors immediately after the close of the polls shall proceed to canvass the votes. They shall first count the ballots to determine if they tally with the number of names recorded by the clerk, and if they exceed that number, enough ballots shall be withdrawn to make them correspond. Such inspectors shall count the votes and announce the result. The person or persons having a majority of the votes respectively for the several offices shall be elected, and the clerk shall record the result of such ballot and election as announced by the inspectors. Whenever the time for holding such election as aforesaid shall pass without such election being held in any such district, a special election shall be called by the board of education, but if no such election be called by said board within twenty days after such time shall have passed, the school commissioner or the

state superintendent of public instruction may order any inhabitant of said district to give notice of such election in the manner prescribed by section ten of this title ; and the officers elected at such special election shall hold their respective offices only until the next annual election, and until their successors are elected and shall have qualified as in this act provided. All disputes concerning the validity of any such election, or of any votes cast thereat, or of any of the acts of the inspectors or clerks, shall be referred to the superintendent of public instruction, whose decision in the matter shall be final. Such superintendent may, in his discretion, order a new election in any district. The foregoing provisions shall not apply to union free school districts in cities, nor to union free school districts whose boundaries correspond with those of an incorporated village, nor to any school district organized under a special act of the legislature, in which the time, manner and form of the election of district officers shall be different from that prescribed for the election of officers in union free school districts, organized under the general law, nor to any of the union free school districts in the counties of Richmond, Suffolk, Chenango, Warren, Erie and Saint Lawrence.

# APPENDIX.

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## ADDITIONAL CITATIONS.

**In dividing a county into assembly districts, under the old Constitution,** the board of supervisors were required to make the division equally as to population, as far as that was reasonably attainable, while making each district convenient and continuous territory and keeping the towns undivided. A large measure of discretion was necessarily left with the board. Every trifling deviation from equality of population could not justify or warrant an application to a court for redress. It must be a grave, palpable and unreasonable deviation from the standard, so that when the facts were presented argument would not be necessary to convince a fair man that a very great and wholly unnecessary inequality had been intentionally provided for. A difference between the population of different districts in a county amounting to six thousand inhabitants is not necessarily such a difference that the court will set aside the apportionment. Districts are not required to be made up of compact territory, and the fact that districts in a city are irregular in form does not establish any actual inconvenience. The constitutional prohibition against the division of towns in making the apportionment, does not apply to wards of a city. (*People ex rel. Carter v. Rice*, 135 N. Y. 473; *Matter of Baird*, 138 id. 95; 142 id. 523; 75 Hun, 545.)

**In dividing a county into assembly districts, under the new Constitution,** the board of supervisors has no longer any large measure of discretion. The new Constitution is very explicit as to the manner in which such apportionment shall be made. In making apportionments and divisions of counties under a Constitution with so many requirements, it is obvious that it must frequently happen that all the requirements of the Constitution cannot be strictly complied with; that there will be a conflict or seeming conflict between them, and that a preference must be given to some over the others. In such cases those of less importance must give way to those of greater. The requirements that towns and blocks shall not be divided; that no district shall contain a greater excess in population over an adjoining district, in the same senate district, than the population of a town or block therein, adjoining such assembly district, and that towns or blocks, which from their location may be included in either of two districts, shall be so placed as to make said districts most nearly equally in number of inhabitants, are mandatory in their nature. The question of convenience is subordinate to the question of equality of population. The court will, therefore, review an apportionment by a board of supervisors with a view of making such apportionment comply absolutely with the constitutional requirements, and will aim to apportion

the districts so that the population of each shall be as absolutely equal as can be. (*Matter of Smith*, 90 Hun, 568; *People ex rel. Gleason v. Alderman*, 14 Misc. Rep. 105.)

**The Constitutional Convention of 1894 intended to curtail the discretion vested in the boards of supervisors in laying out assembly districts, but it is clear that they did not intend entirely to deprive them of it. It was a clear intention to promote the exercise of a reasonable and honest discretion on the part of the supervisors, provided that in no case should there be a greater excess in population over an adjoining district in the same senate district, than the population of a town therein adjoining such assembly district. In the exercise of this discretion they are to lay out the districts so as to be convenient and continuous territory in as compact a form as practicable. It is quite impossible that the carving out of districts with a due regard to convenience, contiguity and compactness could be accomplished in a satisfactory manner, except by a board of officers thoroughly familiar with the territory, and having an intimate knowledge of its towns, topography and means of communication by land and water. Each case must be decided by its peculiar facts, and the courts can be relied upon at all times to enforce the Constitution in its letter and spirit, but they would not feel justified in interfering unless convinced that there had been a clear abuse of discretion. (*In re Smith v. Board of Supervisors*, 148 N. Y. 187, reversing *Matter of Smith*, 90 Hun, 568.)**

**The senate districts are defined with particularity by the Constitution of 1894. The legislature has no authority or power to change the boundaries of the districts until after the next enumeration of inhabitants in 1905. The board of supervisors or board of aldermen have no power to do anything but divide senate districts into assembly districts. Where a new territory has been added to a county, the apportioning board has no power to include such territory in any assembly district of the county. Chapter 934 of Laws of 1895 annexing a part of Westchester county to the city and county of New York, is not unconstitutional because it divides or alters judicial districts. The board of supervisors of Westchester county still have the power to apportion the assembly districts in the annexed territory, and the voters have a right to vote there for senator, member of assembly and justices of the Supreme Court, the same as though the annexation act had not been passed; but all elections in this annexed territory will of necessity be conducted under the control of the election officers of the city and county of New York. (*People ex rel. Field v. Board of Aldermen*, 89 Hun, 460; *People ex rel. Henderson v. Supervisors*, 147 N. Y. 1.)**

**The election of the public officer must be referred to the day upon which the electoral body in which the right of selection resides expresses its choice by voting for candidates for the office and not to some subsequent day. When the result is declared there can be no distinction in this respect between towns and other places. The legislature has the power to describe the time and manner of holding town meetings for the**

election of town officers and the transaction of town business. It may designate a single day for that purpose, or provide for the election of officers on one day and the transaction of the town business on the following day.

So where votes are cast for the office of town clerk for a term of one year, and before the votes were canvassed a new law went into effect extending the term of office of the town clerk to two years, *held*, that the candidate who received the largest number of votes for the office was elected for a term of *one* year. (*People ex rel. Le Roy v. Foley*, 148 N. Y. 677.)

**A newly-created office is vacant** upon the instant it is created unless the creating power appoints an officer to fill it. Thus where a town is divided into two parts, the new town has no town officers until the first town meeting is held, when officers will be elected to fill the vacancies thus existing. (*Matter of Collins*, 16 Misc. Rep. 598. See § 4, *Election Law*.)

**Section 41r of the Penal Code** does not apply to bribery at caucuses or conventions. (*People v. Lewis*, 14 Misc. Rep. 264. See § 50, *Election Law*.)

**When an applicant has been refused enrollment** as a qualified voter at a party's primaries, an alternative writ of mandamus will issue to try his qualifications as a party voter. (*Matter of Guess*, 16 Misc. Rep. 306. See § 53, *Election Law*.)

**It may well be doubted** whether the condition of a voter's qualification to vote at a party primary, that he shall have voted the ticket of such party at the last election, is reasonable or lawful. (*Matter of Guess*, 16 Misc. Rep. 306. See § 53, *Election Law*.)

**It is the legal right** of a party voter to vote at the primaries of his party, and the question whether an applicant is entitled to be enrolled and to vote at the primaries, does not depend upon the discretion, nor upon the decision of the enrolling committee, but upon the fact of whether he possesses the requirements. (*Matter of Guess*, 16 Misc. Rep. 306. See § 53, *Election Law*.)

**An appeal may be taken** from an order made by a Supreme Court judge reviewing the acts of the officer who files the certificates of nomination, even though the election has been held. The question may be one of great public interest. (*Matter of Cuddeback*, 3 App. Div. 103. See § 56, *Election Law*.)

**It was for the protection of the illiterate voter** that the emblem was resorted to, and to enable him to exercise his will, as far as he might be able to do, in voting for the candidate whom he might select. (*Fernbacher v. Roosevelt*, 90 Hun, 441. See § 56, *Election Law*.)

**Where there are several factions of the same party** in the county, the state convention decides which faction shall have the advantage of regularity. The regular faction then becomes entitled to the sole use of the



party emblem for its local candidates. Each local faction can have its own emblem for all its own local candidates; but a local faction, not the regular one, having its own local emblem, cannot place under such emblem the names of the candidates nominated by the party at large for state offices. (*Fernbacher v. Roosevelt*, 90 Hun, 441. See § 56, *Election Law*.)

**Where a party makes independent nominations for local offices**, and indorses the candidates of a regular party for state offices, but fails to file with the secretary of state a certificate of nomination of such offices by such independent party, the county clerk or other officials, whose duty it is to make up the official ballots, cannot place the candidates for the state offices under the heading and under the device of such independent party. Such officer is guided solely in printing candidates for state offices by the certificates of nomination filed with him by the secretary of state. (*Fernbacher v. Roosevelt*, 90 Hun, 441. See § 57, *Election Law*.)

**If the persons signing a certificate of nomination fail to subscribe the oath required by the statute**, the certificate may be rejected as not in apparent conformity with the statute, though regular in all other respects. (*People ex rel. Oliver v. Police Comrs.*, 10 Misc. Rep. 200; *People ex rel. Klinker v. Police Comrs.*, N. Y. L. J., Oct. 31, 1893. See § 57, *Election Law*.)

**An independent party may nominate the same individuals** as the regular party, but they must nominate them as an independent party, place them under their device, and list them under their ticket. (*Fernbacher v. Roosevelt*, 90 Hun, 441. See § 57, *Election Law*.)

**The statutory provision in respect to the time** when the certificates of nomination must be filed is *mandatory*, and must be complied with, and after the time has passed a county clerk has no right to receive and file certificates of nominations. (*Matter of Cuddeback*, 3 App. Div. 103. See § 59, *Election Law*.)

**Although an objection to a certificate of nomination** be not filed with the clerk within three days after the filing of such certificates, yet any citizen who objects to the certificate of nomination has his remedy under section 56 of the Election Law, and he may apply to the court for redress thereunder. (*Fernbacher v. Roosevelt*, 90 Hun, 441. See § 65, *Election Law*.)

**This section does not apply** to an election held to determine the question of the incorporation of a proposed village. The general act for the incorporation of villages (Chap. 291 of 1870) is not repealed directly or by implication by the Election Law. Official ballots need not be used in such an election. (*Matter of Taylor*, 3 App. Div. 244. See § 82, *Election Law*.)

**The only guide for the county clerk** in making up the official ballots consists of the certificates of nomination filed with him. He cannot go behind or beyond these and place under the head or emblem of a particular party the names of candidates not nominated by that party, although he may know that such party intends to support such candidates. (*Matter of Madden*, 148 N. Y. 136. See § 86, *Election Law*.)

**Innocent voters will not be disfranchised** because of a latent defect in the official ballot furnished by the state, not discernible on inspection, which ballot they were compelled to use, the defect consisting in the unauthorized insertion therein by a public official, charged with the duty of making up and printing the ballots, of names of candidates in a party column not duly nominated by such party. (*People ex rel. Hirsh v. Wood*, 148 N. Y. 142; 14 Misc. Rep. 377. See § 88, *Election Law*.)

The case of *People ex rel. Lower v. Donovan* (63 Hun, 512), holding that a mandamus issued upon election day compelling inspectors to accept a vote is void elsewhere than in the first judicial district, can be no longer applicable as the statute forbidding courts to sit upon election day has been repealed. (See § 108, *Election Law*.)

**When the objection to ballots as marked for identification** is not raised during the canvass, a mandamus will not lie to compel the inspectors to reconvene and recount the ballots. The remedy left open is by *quo warranto*, or by the determination of the board to which an officer is declared elected by the canvass objected to. (*People ex rel. Clark v. Earley*, 16 Misc. Rep. 603. See § 110, *Election Law*.)

**Boards of inspectors of election have no power** conferred upon them to correct frauds or rectify mistakes, except clerical ones. Their duty is simply to count the ballots actually in the box at the close of the polls. (*People ex rel. Blodgett v. Board*, 44 N. Y. St. Repr. 738. See § 110, *Election Law*.)

**A ballot furnished by the state is not a marked ballot** within the law, because of any irregularity in making it up or printing it. (*People ex rel. Hirsh v. Wood*, 148 N. Y. 142; 14 Misc. Rep. 377. See § 110, *Election Law*.)

**Mandamus will lie** to compel inspectors of election to perform their official duties in relation to the making and filing of true copies of the original statement of canvass. Where one such copy is incorrect, the inspectors may be compelled to file a correct one. (*Gleason v. Blanc*, 14 Misc. Rep. 620. See § 113, *Election Law*.)



# INDEX.

---

## A.

<b>Adjournment:</b>	PAGE.
after opening of polls, prohibited.....	3
of canvass, prohibited.....	136
of county canvassers.....	160, 161, 162
of state canvassers.....	171
<b>Aldermen:</b>	
list of candidates sent to.....	70
posting of, by.....	70
<b>Appendix:</b>	
additional citations.....	343
<b>Appointment:</b>	
ballot clerks.....	15, 18
inspectors.....	15
additional.....	19
to fill vacancies.....	22
poll clerks.....	14, 15, 18
watchers at polls....	118
<b>Army:</b>	
absence in, not to preclude right to vote.....	44, 268
<b>Assembly:</b>	
division of counties into districts.....	230
eligibility to.....	198
how composed.....	202
members of, number of.....	202
not to receive civil appointment.....	198
time for electing.....	202
<b>Assembly districts:</b>	
division of state into.....	230
<b>Assessors:</b>	
ballots for.....	86, 301
election of .....	296
eligibility of.....	198, 319
oath of office of.....	211
resignations of.....	214, 322
terms of .....	297, 313
vacancies.....	218, 296, 323
<b>Attorney-general:</b>	
election of .....	200
oath of office of.....	211
resignation of .....	214

**Attorney-general—Continued:**

	PAGE.
removal of .....	216
state canvasser .....	171
term of .....	200
vacancies in office of .....	218, 219

**Automatic ballot cabinets:**

use of, at elections .....	196
----------------------------	-----

**B.****Ballot boxes:**

arrangement of, at polls .....	17
ballots, how deposited in .....	131
candidates, box for ballots for.....	24
constitutional amendments, box for .....	24
local option ballots in.....	25
delivery of, at polling places.....	12
detached ballot stubs, box for.....	24
distance between, and guard rails... ..	25
examination of, by inspectors and watchers.....	117
expense of providing .....	26
kept within guard rail .....	117
lock and key .....	24
officers to provide.....	12
openings in lids of .....	24
preservation of, when not in use.....	12
spoiled and returned ballots, box for .....	24
unauthorized matter not to be placed in.....	117
unlocked or opened, not to be.....	117
within rail at opening of polls.....	116

**Ballot cabinets and machines:**

use of, at elections .....	179, 190, 196
----------------------------	---------------

**Ballot clerks:**

absence of .....	18, 23
acting as, without being qualified, penalty for .....	21, 22
announcement by, on delivery of ballots .....	121
on return of ballots.....	121
appointment of .....	15, 18
forms for .....	30, 31
ballots, delivery of, regulated.....	120
delivery of, order of .....	120
delivery of folded, to voters .....	125
placed in charge of .....	117
return of, duty upon .....	121
sample ballots, to furnish voters .....	92
spoiled, replacing of, by .....	121
return of, prepared by.....	121
form for.....	150
unvoted, delivery and return of, to inspectors.....	121

**Ballot clerks—Continued:**

	PAGE.
certificate of service as.....	17
compensation of.....	27
duties of, general.....	120
eligibility to office of.....	14
exempt from jury duty in cities.....	18
misconduct of, general.....	22
none were Myers machine used.....	21
number of.....	14
oath of office of.....	16, 20
failure to take, penalty for.....	17
form for.....	32
one to be chosen from each party..	14, 19
opening of polls, to be present at.....	116
position of, within inclosed space.....	117
qualifications of.....	14, 19
removal for cause.....	17
sample ballot, to receive.....	117
voter may take, away from polls, before voting.....	92
statement by, of ballots delivered, returned, etc.....	120
form for.....	95
stubs detached, return of, to inspectors.....	120
term of office of.....	14, 18
vacancies in office of.....	17, 18, 23
forms for filling.....	30, 31
oath of appointee.....	19

**Ballots:**

blank spaces on, with title to be filled by voter....	87
city clerk to distribute to polling places.....	102
when to provide.....	100
constitutional amendments, etc., ballots for.....	90
counting of, at elections.....	136, 139
excess to be drawn, etc.....	137
exhibition of ballots to watchers.....	140
powers and duties of inspectors as to.....	138
when folded together.....	137
when in wrong box.....	137
when objected to.....	140
without official indorsement.....	137
county clerk, to distribute.....	101
to provide.....	100
delivery of, to inspectors.....	102
receipts for.....	102
form for.....	114, 115
to town or city clerks.....	101
receipts for.....	102
form for.....	114, 115
to voters.....	125

**Ballots—Continued:**

	PAGE
delivery of, regulated.....	120, 126
unlawfully, penalty for.....	126
deposit of, in boxes.....	131
proper indorsement, when without.....	131
distribution of, by inspectors at polls.....	117
to polling places.....	101
destruction of, when folded together.....	137
unlawfully.....	107
distribution of, to polling places.....	102
elections for which, shall be printed.....	86
emblems for, choice of.....	60
errors and omissions in, correction of.....	102
expense of printing and delivering.....	26
fac simile of clerk's signature, when not required on.....	90
failure to deliver, penalty for.....	102
folding of, by voters....	131
form of.....	86
independent tickets on.....	88
indorsement on.....	89
forging or falsely making, penalty for....	107
kept within guard rail.....	118
marks on, prohibited.....	128
not to be counted.....	129
penalty for placing.....	108
misconduct in relation to.....	91
names of all candidates....	86
limited.....	90
number of, for each polling place.....	99
objected to, filed with statements of result.....	145
judicial investigation of.....	146
to be marked.....	140
official ballots for candidates, form for.....	86
at school elections.....	86
one form only.....	86
party device on.....	86
party ticket on.....	86
pasters on.....	74
preparation of, by voters.....	128
preservation of, after election.....	143
stubs to.....	146
where filed ..	144, 145, 146
presidential electors, ballots for.....	88
public inspection of, before election.....	100
questions submitted, ballots for.....	90
receiving from other than ballot clerk.....	124
removal of, from polling place, penalty for.....	123
rules for marking.....	129
illustrations.....	152, 153

**Ballots—Continued :**

	PAGE.
sample ballots, delivery of, to voters.....	92, 101
for polling places, providing of.....	91
form of.....	92
showing, after prepared for voting.....	123
spoiled ballots, replacing of.....	129
stub on, how printed.....	89
preservation and filing.....	145, 146
substitutes for missing ballots, distribution of.....	103
terms of office, designation of, on .....	90
town clerks, to deliver.....	102
to provide.....	100
town meetings, ballots for.....	86
unofficial ballots, preparation of.....	103
use of, when permitted.....	103, 132
unvoted ballots, filing of.....	145, 146
unvoted ballots, failure to return to ballot clerks, penalty for.....	108
preservation of .....	145, 146
return of, etc., to inspectors .....	121
village clerk to deliver .....	102
to provide.....	100
village elections, ballots for .....	86
void ballots .....	138, 140
filing and preservation of .....	143
judicial investigation of .....	147
return of.....	142

**Bets or wagers :**

persons making, not to vote.....	270
----------------------------------	-----

**Beer :**

sale of, at places of registry, prohibited .....	11, 12
at polling places, prohibited .....	11, 12

**Blank forms :**

to be furnished election officers.....	92
--	----

**Board of Registry ;**

See "REGISTRATION."

**Bribery :**

at elections.....	270, 275
-------------------	----------

**Booths :**

See "VOTING BOOTHS."

**Board of County Canvassers :**

See "COUNTY CANVASSERS."

**Board of Inspectors :**

See "INSPECTORS OF ELECTION."

**Board of Registers :**

See "REGISTRY, BOARDS OF."

**Board of State Canvassers :**

See "STATE CANVASSERS."



## C.

**Candidates:**

	PAGE.
emblems to distinguish, selection of.....	60
contribution of moneys, etc., by, for election.....	109
list of nominations, defacing, etc.....	64, 107
errors in, correction of.....	102
form of.....	82, 83
posting of.....	71
publication of.....	69
form for.....	82
sent to aldermen and town clerks.....	70
nomination of.....	60, 65
official ballots for.....	86
qualifications of.....	198
soliciting, penalty for.....	75
statement of expenses of.....	75
form for.....	85
penalty for neglect to file.....	75

See, also, "NOMINATIONS."

**Canvass of votes:**

adjournment, prohibited.....	136
ballots, counting of, commence immediately at close of polls.....	136
containing too many names marked.....	138
excess to be drawn and deposited.....	137
exhibition of, to watchers.....	140
first count before unfolding.....	136
folded together, when destroyed.....	137
in wrong box, not to be rejected, etc.....	137
method of counting.....	139
objected to ballots to be marked and counted.....	140
penalty for marking, during.....	140
powers and duties of inspectors in counting.....	138, 139
replacing in box, after counting..	143
rules for counting.....	138, 139
unfolded by chairman only.....	137
without official indorsement.....	137
boxes, order of opening.....	136
comparison of poll lists.....	136
false returns, penalty for making.....	144
intent of electors, how arrived at.....	138, 139
proclamation of result.....	144
form for.....	158
public canvass and estimate of votes.....	136
room used for, lighted.....	136
entrance to, to be open.....	136
statement of canvass.....	142
ballots to be filed with.....	142, 143
certified copies of.....	143

**canvass of votes — Continued :**

PAGE.

statement of, certifying original.....	143
correction of errors in .....	161
delivery of copy of, to supervisor, etc .....	145
to town clerk, etc.....	145
filing of.....	145
in New York .....	145, 146
in Brooklyn .....	146
for police department.....	140
form of.....	95, 96, 97, 98, 99, 156
objected to ballots, to be filed with.....	142
original .....	142
refusal to certify, grounds for.....	143
time and place for signing .....	136
penalty for violation.....	136
unofficial ballots to be filed with .....	143
void ballots to be filed with .....	142, 143
watchers may be present at.....	119

 **cards of instruction :**

See " INSTRUCTION CARDS."

 **caucus :**

See " PRIMARY ELECTIONS."

 **challenges :**

at elections :

additional oaths.....	133, 134
challengers' names, not to be disclosed.....	132
examination of persons challenged .....	133
general oath, if challenge not withdrawn.....	133
form of.....	154
inspectors to challenge.....	132
to challenge, powers of .....	134
minutes of challenges.....	135
forms of.....	156
preliminary oath.....	132
questions on.....	133
form of.....	154
qualifications of voter, board to point out.....	133
right of challenge.....	125
rejection of votes, upon refusal.....	133
time for.....	132
voters registered, may be challenged.....	125
taking oath, entitled to vote.....	133, 134

At registry of voters :

examination of applicant for registry.....	46
general oath, if challenge not withdrawn.....	46
preliminary oath.....	46
questions on.....	46
record of challenges.....	46

**Challenges — Continued.**

	PAGE.
At registry of voters :	
record of, oath for.....	46
form of.....	55
refusal to make statement.....	46
who may challenge.....	46

**Challengers :**

permitted to remain outside of guard rail.....	119
--	-----

**Children :**

of citizens of the United States.....	283
minor, of persons naturalized.....	287

**City clerk :**

ballots, delivery of, to.....	101
distribution of, by, on election day .....	102
failure to deliver to, penalty for .....	102
preparation and furnishing of, by .....	100
receipts for, delivered to .....	102
form of.....	114, 115
substitutes for official ballots, may prepare.....	103

**Cities :**

ballot machines, use of, in .....	179, 180
ballots for election in.....	100
boards of registry, meetings of .....	35
election districts in, new copies of previous registers for.....	53
election expenses, city charge.....	26
election in, date of .....	2
elections, statements of results of, filing of. ....	145
inspectors of election in .....	15
list of voters, how prepared in .....	38, 41
polling places, designation of.....	11
registration of voters in .....	35, 38, 41
special elections in, registry for.....	42

**Citizens of the United States :**

children of citizens .....	283
deserters are not .....	282
faithful service works removal .....	282
married women are .....	281
must have been ninety days.....	298
persons born in Oregon.....	281
rights of expatriation....	282
right to vote of.....	268
who are .....	281

**Citizenship :**

defined.....	281
desertion works loss of.....	282

**Collector, town :**

election of .....	296
oath of.....	319

<b>Collector, town—Continued.</b>	PAGE.
term of.....	296
undertaking of .....	319
<b>Color:</b>	
persons of, have right of suffrage.....	268
<b>Comptroller:</b>	
election of.....	200
oath of office.....	211
removal of.....	216
resignation of.....	214
state canvasser.....	171
term of.....	200
undertaking of.....	212
vacancy, how filled.....	218, 219
<b>Commissioners of excise:</b>	
ballots for.....	86, 301, 307
election of.....	296
ineligibility to office of.....	297
oath of office of.....	319
undertaking of.....	322
vacancies in office of.....	297
<b>Commissioners of highways:</b>	
election of.....	296, 297
holding over of.....	297
oath of office of.....	211, 319
term of office of.....	297
undertaking of.....	322
vacancy in office of.....	297
<b>Concurrent resolutions:</b>	
publication of .....	7
<b>Congress:</b>	
districts.....	256
members of, election of.....	174, 202
qualifications of.....	199
<b>Constables:</b>	
appointment of, by inspectors.....	23
election of.....	296
execution of election orders by.....	24
holding over.....	297
oath of office of.....	319
term of office of.....	297
undertaking of .....	320
<b>Constitutional amendments:</b>	
ballot box for.....	24
ballots for.....	90
publication of. ....	7, 8
submission of, time for.....	7
two legislatures to agree to. ....	8

<b>Contributions:</b>	PAGE.
for election purposes, penalty for giving or receiving.....	100
<b>Conventions:</b>	
definitions of.....	56
emblems for ballots, selection of, by.....	70
misdemeanor at.....	56
nomination at.....	50
See, also, "NOMINATIONS."	
<b>Convict:</b>	
challenge as a.....	154
disfranchisement of.....	270
pardon and restoration of.....	270
penalty for voting.....	270
when a crime to vote.....	270
<b>Coroner:</b>	
election of.....	204
term of.....	204
<b>Corporations:</b>	
forfeiture of charter of.....	277
influencing voters, etc., by, prohibited.....	277
pay envelope, use of, by, to influence voters, prohibited.....	277
refusal by, of grant of absence of employees, penalty for.....	269
<b>County:</b>	
four months in, to vote.....	268
officers, election, etc., of.....	203
<b>County canvassers:</b>	
adjournment of.....	160, 161, 162
board, how composed.....	159
canvass of votes, by.....	160
certificates of election, to transmit.....	169
chairman of.....	159
decisions, as to persons elected.....	168
publication of.....	169
election district statements, errors in, correction of.....	161
production of, before board.....	160
errors by boards, correction of.....	162
mandamus to compel corrections and performance of duty.....	163
to compel meeting and organization.....	160
meetings of.....	159
organization of.....	159
quorum of.....	160
secretary of.....	159
statements of canvass, certificates of.....	165, 166
separate statement for each office.....	166
transmission of, to state officer.....	165, 169
<b>County clerks:</b>	
ballots, delivery of, to town or city clerks.....	101
errors and omissions in, correction of, by.....	102

**County clerks —Continued.**

ballots, delivery of :	PAGE.
number to be furnished districts by .....	99
providing and printing, duty as to .....	100
cards of instruction, to provide.....	92
certificates of election, to deliver .....	169
certificates of nomination filed with.....	67
compensation of, for services .....	27
constitutional amendments, duty as to .....	7
convictions for bribery, duty as to .....	276
distance markers, to provide.....	92
election of .....	204
election laws, distribution of, by.....	28
notice of election, publication of, by.....	6
oaths, certain, administered by, and filed with .....	211
list of candidates, sent by, form for.....	83
to furnish aldermen and clerks .....	70
nominations, certain, certified to by secretary of state.....	68
filing of, with .....	67, 68
list of, form for .....	82
publication of, by .....	69
registry books, delivery of.....	52
resignation of .....	214
removal of .....	216
secretary of county canvassers.....	159
statements of canvass, duties as to.....	165, 166
statements of election expenses filed with.....	75
term of .....	205
undertaking of .....	205

See, also, "COUNTY CANVASSERS."

**County judge:**

election of.....	203
special .....	203
term of.....	203
vacancies in office of.....	6

**County officers:**

certificate of election of.....	169
election of .....	203, 207
oath of office of .....	211, 214
removal of.....	216
resignations of.....	214
statement of votes for.....	166
undertakings of.....	212
vacancies in.....	218, 221
election and term of office .....	203, 207

**County treasurer:**

election of.....	205
term of.....	205
undertaking of .....	205

	PAGE.
<b>Court of Appeals, Judges of:</b>	
judges not to hold other office.....	198
term of office, election of.....	200
vacancies in, how filled.....	5
<b>Crimes and misdemeanors:</b>	
bribery or intimidation of elector in military service .....	111
candidate's statement of expenses, failure to file.....	113
certificates of nomination, misconduct as to .....	106
consideration for franchise, giving.....	109
receiving .....	110
conspiring to promote or prevent elections .....	124
contribution of moneys, etc., for elections.....	273
corrupt use of position or authority ....	113
disobedience of lawful commands of inspectors .....	108
election law, violation of, by public officer.....	107
election officers and watchers, misconduct of.....	107
election officers, acting as, without being qualified.....	107
commands of, refusing to obey.....	108
misconduct of .....	107
election supplies, poll lists, etc., removal, mutilation, etc., of .....	106
electioneering at or near polls.....	119
elector, obstructing, etc.....	107
employe, refusal to permit, to attend elections.....	106
false certificate of citizenship .....	288
false certificate of naturalization, using, as evidence of right to vote .....	106, 288
false registration .....	106
false returns.....	109
fraudulent certificate in order to register, presenting.....	114
in order to vote, procuring.....	114
furnishing money or entertainment to induce attendance at polls..	109
guard rail, unlawfully going within, etc .....	118
house dweller, failure of, to answer inquiries.....	106
illegal voting.....	108
infamous crimes, voting after conviction of.....	108
misdemeanors, certain, in relation to elections.....	107
political caucuses and conventions .....	105
official ballots, failure to deliver .....	107
failure to return.....	108
marking of .....	108
misconduct in relation to .....	106
receiving and delivering unlawfully.....	108
removal of.....	108
showing of .....	108
pardon and restoration from .....	270
political assessments.....	112
registry, fraudulent certificates for, presenting, etc.....	114
registry lists, mutilation, destruction or loss of .....	106

# INDEX.

361

<b>Crimes and misdemeanors — Continued.</b>	PAGE.
registry officers, misconduct of.....	106
soliciting candidates to purchase tickets, etc....	114
testimony upon prosecution.....	111
voters, duress and intimidation of.....	111
voting at unauthorized places.....	108
voting booth, unlawfully entering, etc.....	108
voting by inhabitant of another state or country.....	273
voting more than once.....	109
voting unlawfully.....	108, 270
watchers, misconduct of.....	107

## D.

<b>Davis automatic ballot machine:</b>	
use of, at elections.....	190
<b>Declination:</b>	
nominations. ....	71
notice of declination of nomination.....	71
<b>Deserters:</b>	
citizenship, deprived of.....	281
faithful service removes disability.....	282
right of, to vote.....	268
<b>Distance markers:</b>	
delivery of, to inspectors.....	102
expense of providing.....	26
officers to provide.....	100
placing of, at polls.....	117
<b>District attorney:</b>	
election of.....	206
undertaking of.....	206
<b>Districts:</b>	
See "ELECTION, ASSEMBLY, SENATE, ETC., DISTRICTS."	
<b>Disabled voter:</b>	
See "ELECTOR."	

## E.

<b>Election day:</b>	
considered as Sunday for banking purposes.....	3
in public offices.....	3
county clerks' offices to be closed on.....	3
courts may sit on.....	3
general, a public holiday. ....	2
liquor not to be sold on.....	2
national guard not to parade on.....	2
sale of property in mortgage foreclosure on.....	3
sheriffs' offices to be closed on.....	3
tolls not to be charged on.....	3



**Election districts:**

	PAGE.
creation, alteration, etc., of.....	8
in cities.....	9, 10
in towns.....	9, 10
maps and boundaries of.....	10
number of, in state....	223
See, also, "BROOKLYN" and "NEW YORK."	

**Election, Inspectors of:**

See "INSPECTORS OF ELECTION."

**Election officers:**

acting as, without being qualified.....	21, 22
additional oath of .....	127
form for ... ..	149
board of, to be bi-partisan .....	14, 19
designation and number of.....	14
duties of, general.....	120
exempt from civil service regulations .....	21
general qualifications of .....	14, 19
in cities .....	15
appointment and qualifications of .....	15, 16
certificate of service as .....	17
exemption from jury duty.....	18
failure to deliver register ... ..	18
to take oath, penalty for .....	17
neglect of duties, penalty for .....	17
oaths of .....	16
removal for cause.....	17
in towns .....	18
appointment of.....	18
misconduct of .....	107
neglect to perform duties .....	124
term of office of .....	14
to assist illiterate and disabled electors .....	126
violation of law, by misconduct of .....	22

**Elections:**

adjournment or intermission prohibited .....	3
ballot clerks, general duties of .....	120
ballots, delivery of, to voters .....	125
how to mark, for voting.. ..	152, 153
ballots objected to, judicial investigation of.....	146
preparation of, by voter .....	128
providing of, at public expense .....	86
unofficial, when may be voted.....	132
bets or wagers at .....	270
bribery at .....	270
bribery, menace, etc., at .....	111
canvass of votes .....	136
city elections....	2

**Elections — Continued.**

	PAGE.
challenges at.....	132
challengers at.....	118
distance markers, placing of .....	117
electioneering at .....	119
expense of, payment of .....	26
false returns, penalty for making.....	144
general election, day of... ..	2
general regulations for .....	116
guard rail, who admitted within.....	118
inspectors, general duties of.....	120
laws, transmission of, to clerks and election officers .....	28
misdemeanors, in relation to .....	107
national guard, not to parade during .....	2
notices of .....	6
order at, preservation of.....	23
papers, delivery and filing of, by inspectors... ..	145
poll clerks, general duties of.....	121
polls, closing of, time of.....	3
opening of, time of.....	3
opening of, proclamation on.....	117
opening of, special laws as to.....	3
proclamation of, result of.....	144
special, to fill vacancies.....	4
statement of canvass.....	142
correction of.....	161
supplies, etc., removal, mutilation, etc., of.....	13
voting, manner of.....	131
watchers at.....	118
misconduct of. ....	119

**Electioneering :**

within 100 feet of polls, prohibited.....	119
penalty for.....	119

**Electors:**

announcement of names by, to inspectors.....	125
assistance for disabled and illiterate voters.....	126
elector assisting, when.....	126
record of.....	135
form for.....	155
ballots, delivery of, to.....	120, 125
marking, for voting.....	128
marks on, not to place.....	128
penalty for placing.....	108
preparation of, by.....	128
return of, and passing outside of rail.....	131
sample, furnishing of, to.....	92
showing of, by, penalty for....	108
spoiled, replacing of.....	128

**Electors — Continued.**

	PAGE.
ballots, delivery of :	
to deliver back before leaving rail.....	131
unvoted, to return.....	131
failure to return, penalty for....	108
bets or wagers by.....	270
bribery of.....	270, 273
booths, occupation of, by.....	128
challenge of, on application for ballots.....	132
on application for registry.....	46
taking oath, entitled to vote.....	134
disabled voters, assistance for.....	45, 126
assistants not to influence.....	127
assistants not to divulge names.....	127
oath of, form for.....	151
disfranchisement of.....	269
election districts, number in.....	10
entry of, within guard rail.....	125
free exercise of elective franchise by, not to be interfered with....	277
illiterate voter, assistance for.....	45, 126
oath of, form for.....	151
inducing to vote, penalty for.....	127
inspectors, may appoint, to fill vacancies, etc.....	22
intimidation of, penalty for.....	277
leaving space before voting.....	132
manner of voting by.....	131
obstructing voter on way to polls or while attempting to vote....	107
personal appearance for registration.....	41
qualifications of, for registration.....	44
for voting.....	44, 268
questions submitted, how to vote upon.....	129
race, color, etc., not to affect.....	268
residence of.....	44
change in.....	45
registration of.....	35
personal appearance, when required.....	41
qualifications for.....	44
registry list of.....	38
right of, to register.....	44
right to vote, challenge of.....	125
not to be denied.....	268
statements may be required of, at elections.....	133
at registration.....	46
tolls not to be charged on way to polls.....	3
unofficial ballots, use of by.....	103
unvoted ballots, to return.....	131
unregistered voter not to vote.....	125
wrongful voting by.....	108

<b>Electors of president and vice-president :</b>	PAGE.
ballots for .....	86
compensation of .....	176
election of .....	174
electoral college, meeting and organization of .....	174
list of electors for .....	175
list of persons voted for .....	175
messengers, appointment of, etc. ....	175
meeting of .....	174
president of .....	175
secretaries of .....	175
statements of votes for .....	166
vote of electors .....	175
<b>Emblems :</b>	
selection of, to distinguish candidates .....	61, 67
<b>Entertainments :</b>	
prohibition of .....	109
<b>Employees :</b>	
absence for voting, entitled to .....	135
refusal to permit .....	135
influencing, by use of pay envelopes, etc., prohibited .....	135, 136
no reduction from salary or wages .....	135
<b>Employers :</b>	
bills or placards, posting of certain, by, prohibited .....	112
pay envelopes, use of, by, to influence voters, prohibited .....	112
refusing leave of absence to employees, penalty for .....	106
<b>Expatriation :</b>	
right of, maintained .....	282

F.

<b>Felony :</b>	
See "CRIMES."	
<b>Forms :</b>	
ballot clerks, appointment of .....	30, 31
bills of, for compensation .....	33
oath of .....	32
statement of ballots delivered, etc. ....	120
vacancies and absences in office of, filling of .....	30, 31
ballots delivered, receipts for .....	114, 115
certificates of nomination .....	76-81
declination of nomination .....	83
independent nominations .....	81
inspectors. additional appointment of, at election .....	29
appointment of, by electors .....	30
by inspectors .....	30
by town board, to fill vacancies .....	29
appointed, oath of .....	32
bills of, for compensation .....	33

**Forms — Continued.**

	PAGE.
inspectors, bills of :	
affidavit thereto .....	34
designation of, by electors.....	30
elected, oath of.....	31
oath of, before opening of polls.....	127, 149
oath of persons designated to act as .....	32
vacancies and absences, filling of .....	29, 30
lists of nominations .....	82, 83
memorandum of challenges .....	156
oath of disabled voters.....	151
illiterate voters.....	151
inspectors.....	31
general, on challenge....	154
preliminary, on challenge.....	54, 132
questions under .....	54, 154
party nominations .....	76, 77, 78, 79, 80
poll clerks, appointment of.....	30, 31
bill of, for compensation.....	33
oath of.. ..	32
vacancies and absences in office, filling of .....	31
poll list, form for.....	151
poster or list sent to town clerks or aldermen.....	83
precept in case of refusal to obey commands of inspectors.....	32
proclamation of opening of polls.....	149
result of election .....	158
receipts for official ballots delivered ... ..	114, 115
certificates to.....	55
statement of canvass.....	156
statement of election expenses by candidates .....	85
vacancies in nominations, filling .....	84
watchers, certificates of appointment of .....	149

**G.****General election :**

when to be held.....	2
a public holiday .....	2

**Governor :**

election of.....	199
eligibility .....	198
pardons and restorations by.....	270
term of office.....	199
vacancies in office filled by.....	5

**Guard rail :**

admission within, regulated.....	118
construction, manner of.....	25
entry of voters within.....	125
expense of providing... ..	26

**Board rail—Continued.**

	PAGE.
officers to provide.....	12
preservation of.....	12
unlawful presence within, penalty.....	118

**H.****House dweller:**

failure of, to answer inquiries, penalty for.....	41
---	----

**I.****Illegal voting:**

See "CRIMES."

**Illiterate voters:**

assistance for .....	45, 126
----------------------	---------

**Independent nominations:**

See "NOMINATIONS."

**Inspectors of elections in cities:**

absences and vacancies at meetings, filling of.....	22
forms for.....	30
appointment of.....	15
certificate of service as .....	17
chairman to prepare.....	17
making false one, penalty.....	17
compensation of.....	27
exempt from civil service regulations.....	21
from jury duty.....	18
failure to deliver register, penalty.....	18
neglect of duties, by, penalty.....	17
number of.....	14
oath of office of.....	16
failure to take, penalty.. ..	17
form of.....	31
qualifications of.....	14, 19
removal for cause.....	17
term of office of.....	14

**Inspectors of election in towns:**

absences and vacancies at meetings, filling of.....	22
forms for.....	29, 30
accounts for services, how made out... ..	21
form for.....	33
appointment of additional inspectors.....	18, 19
form for.....	29
appointment, to fill vacancies.....	22
form for.....	29
compensation of.....	28
bills for.....	21
form for.....	33
compensation, payment of. ....	18

**Inspectors of election in towns — Continued.**

	PAGE.
election of.....	18, 19
eligibility of.....	19
exemption from civil service regulations.....	21
fees for filing papers and mileage.....	27
oath of office of.....	20
form for .....	31, 32
qualifications of.....	14, 19
term of office of.....	14, 20
vacancies, filling of, by town board.....	21

**Inspectors of elections, general provisions relating to :****At elections :**

acting as, without being qualified.....	21, 22
adjournment or intermission prohibited.....	3
announcement by, whether voter is registered.....	120
of name, etc., of voter.....	125, 131
ballot clerks, appointment of, by.....	22
ballots, counting of, by.....	136
ballot boxes, placing of unauthorized matter in, prohibited...	117
unlocking and relocking by.....	117
ballots, delivered to.....	102
delivery of, to voters.....	125
entry upon registry upon delivery of.....	120
delivery of, distribution of, by, at polls.....	117
exhibition of, to watchers.....	140
not to deposit certain.....	131
receipts for .....	102
form for .....	114, 115
receiving of, from voter, by.....	131
within rail, to be, at opening of polls.....	116
board of inspectors, organization of .....	22
disobedience of command of.....	24
form in case of.....	32
meetings of, public.....	23
misconduct, general.....	22
one, appointed to receive ballots.....	120
preservation of order by .....	23
form used .....	33
questions before, determined by majority .....	120
violating election law .....	22

**Canvass of votes by :**

adjournment of canvass prohibited .....	136
ballots, excess to be drawn .....	137
exhibition of, to watcher .....	140
folded together, when destroyed .....	137
in wrong box not to be rejected.....	137
objected to, to be marked .....	140
without official indorsement not to be counted .....	137

**inspectors of election—Continued:**

	PAGE.
Canvass of votes by :	
comparison of poll lists .....	136
powers and duties of inspectors in canvassing .....	138, 139
proclamation of result... ..	144
form for .....	145
Statement of result of canvass :	
certificates thereto .....	143
certified copies to be made .....	143
copies to be filed with county clerk .....	145
to be filed with town or city clerk .....	145
correction of errors in.....	161
delivery of, to assessors .....	145
to supervisors .....	145
false returns, penalty for making .....	144
form of.....	156
chairman of, appointment of .....	22
challenges, duty in case of ....	132
memorandum of.....	135
powers as to .....	132
names not to divulge .....	132
checking of names by .....	120
designation of inspectors to receive ballots.....	120
distance markers, placing of .....	117
disabled or illiterate voters, to administer oath to .....	126, 127
duty of, general .....	120
false canvass, felony to make.....	109
guard rail, who admitted within.....	118
illiterate voter, to administer oath to .....	126, 127
instruction cards, distribution of, by .....	116
meeting of. ....	116
public, to be.....	23
oath, to take before opening of polls .....	127
opening of polls by.....	116
proclamation of.. ..	117
order at elections, to preserve.....	23
appointment of officers by, to preserve.....	24
penalty for disobeying....	24
permitting persons not entitled to vote, penalty for.....	107
physical disability of voters, not judges of.....	127
position of, within enclosed space.....	117
poll clerk, appointment of, by.....	18, 23
polls, opening and closing of, time for.....	3
opening of.....	116
proclamation of .....	117
precept by, to preserve order, form of.....	32, 33
proclamation of result of canvass. ....	144
register of voters, check mark upon, upon voting.....	120



**Inspectors of election—Continued:**

	PAGE
to have original at elections.....	115
Registration of voters:	
challenge, of applicant, duty as to.....	46
registry of.....	46
disabled and illiterate voters, duty as to.....	45
meetings for registry.....	35
misconduct of, penalty.....	36
naturalization papers, presenting fraudulent, to.....	114
not to be absent during.....	36
oath before, false, penalty for.....	47
preservation of order by.....	23
qualification of voters for registration.....	44
questions before, determined by majority.....	120
registers of voters.....	33
addition and cancellation of names on.....	36
certificates to, to attach.....	43
copies of.....	49
custody of lists.....	49
delivery of previous, to.....	52
preparation of, by.....	33
selection of, to assist disabled or illiterate voters.....	126
vacancies at meetings, filling of.....	22
vote, canvassing of.....	136
voting, manner of.....	131

**Instruction cards:**

contents of.....	92
defacing or destruction of, penalty for.....	106
delivery of.....	92
distribution of, for polling place.....	92
form of.....	104
not to be taken down, etc., during elections.....	117
officers to provide.....	92
posting of.....	116
printing of.....	92
removal, mutilation, etc., of.....	118

**J.****Judges:**

court of appeals, election of.....	200
not to hold other office.....	108
to file certificate of age.....	201

See, also, the various courts.

**Judicial districts:**

division of state into.....	258
eight in number.....	258

**Justices of peace:**

ballots for.....	301
certificate of election of.....	320

<b>Justices of peace — <i>Continued.</i></b>	PAGE.
election of.....	296
term of.....	297
undertakings.....	321
vacancy, how filled.....	297, 323

**Justices of supreme court:**  
See "SUPREME COURT."

## K.

<b>Kings county:</b>	
town business in, relative to.....	313

## L.

<b>Laws repealed:</b>	
schedule of.....	176
<b>Legislature:</b>	
members of, not to receive civil appointments.....	198
time for election of.....	202
vacancies in office filled by.....	4
who eligible.....	198
See, also, "ASSEMBLY" and "SENATE."	

<b>Lieutenant-governor:</b>	
election of.....	199
eligibility.....	198
term of office.....	199
resignation of.....	183

<b>List of voters:</b>	
See "REGISTRATION OF VOTERS."	

<b>Liquors:</b>	
election day, not to be sold on.....	2
places of registry, not allowed at.....	12
polling places, not allowed at.....	12

<b>Lodging-house keepers:</b>	
daily register of lodgers.....	41
fortnightly returns of.....	41
penalties for violation.....	41

## M.

<b>Member of assembly:</b>	
See "ASSEMBLY."	

<b>Misdemeanors:</b>	
See "CRIMES AND MISDEMEANORS."	

<b>Myers' automatic ballot machine:</b>	
use of, at elections.....	179

## N.

<b>Naturalization:</b>	
Africans, etc., to apply to.....	287
aliens discharged from military service.....	286

**Naturalization — Continued.**

PAGE.

certain persons arriving during minority .....	287
children, minor .....	287
declaration of intention and qualifications .....	284, 288
papers, fraudulent, procuring and presenting .....	47, 48
residence, term of, continuous, before .....	287
seamen, foreign .....	288
state naturalization law .....	290
courts having jurisdiction .....	290
fees of officers .....	294
final application .....	290
record of .....	293
notice of application .....	292
posting of .....	293
penalty for violation .....	294
political assessments, payments by, prohibited .....	294
primary declarations .....	290

**Navy:**

absence in, not to disqualify .....	268
-------------------------------------	-----

**Newspapers:**

selection of, for publication of list of nominations .....	69
for publication of concurrent resolutions .....	8
for publication of notices of elections .....	7
for publication of list of polling places .....	12

**Nominations:**

certificate of, by secretary of state .....	68
by committee .....	60
by party organizations .....	60
committee named, to fill vacancies .....	61
forms for .....	76, 77, 78, 79, 80
by independent nomination .....	66
committee named to fill vacancies .....	67
form for .....	81
correction of .....	72
defacing, etc., fraudulently .....	64
falsely making filing and receiving of .....	64
filing of places of .....	67
time for .....	68
forms for .....	76, 77, 78, 79, 80, 81
misconduct as to .....	64
names on, restricted .....	67
objections to .....	72
questions as to, how decided .....	63
suppression of duly filed .....	64
declination of .....	71
form for .....	83
independent nominations .....	65
list of, errors and omissions in, correction of .....	102

**Nominations—Continued.**

list of errors and omissions in, corrections of:	PAGE.
publication of.....	69
form for.....	82
for town clerks and aldermen.....	70
form for.....	83
party nominations.....	60
record of... ..	68
town, village nominations, posting of .....	71
vacancies in, filling of....	72
certificate to be made.....	73
form for.....	84
use of pasters in.....	74
voters may make.....	65
<b>Notices:</b>	
elections, by secretary of state and county clerk.....	6

**O.****Oath:**

ballot clerk.....	16, 20
form of.....	32
challenge, oath on.....	46, 132, 133
disabled voter.....	45
form for.....	55
false, penalty for.....	47
illiterate voter... ..	45
form for.....	55
inspectors in cities.....	16
form for.....	31
inspectors in towns.....	20
forms for.....	31, 32
poll clerks.....	16, 19
form for.....	32
public officers.....	211
form for.....	211
neglect to file.....	214

**Officers:**

    See "PUBLIC OFFICERS."

**Overseers of poor:**

ballots for.....	301
election of.....	296, 298
terms of.....	298
undertaking of.....	322

**P.****Parole:**

and restoration.....	270
----------------------	-----

**Party nominations:**

See "NOMINATIONS."

**Pastors:**

See "BALLOTS."

**Penalties:**

See "CRIMES AND MISDEMEANORS."

**Physical disability:**

PAGE.

defined..... 126

See, also, "DISABLED VOTER."

**Placards:**

posting of, in factories, etc..... 112

**Political divisions:**

state, counties, towns .. 223

**Poll clerks:**

acting as, without being qualified.....21, 22  
 appointment of.....15, 18  
     form for.....30, 31  
 certificate of service as..... 17  
 compensation of..... 28  
 duties of, general..... 121  
 exempt from civil service regulations..... 21  
     from jury duty in cities..... 18  
 misconduct of, general..... 22  
 number of..... 14  
 oath of office of.....16, 19  
     failure to take, penalty..... 17  
     form of..... 32  
 one to be from each party.....14, 19  
 poll lists, challenges, to designate on..... 122  
     comparison of, with register..... 122  
     entries therein..... 122  
     form of..... 122  
     memorandum on, as to disabled voters and challenges..... 122  
     to have, at opening of polls..... 117  
 position of, within enclosed space..... 117  
 qualification of.....14, 19  
 removal for cause..... 117  
 stubs, report of number on, upon offer to vote..... 122  
 term of office of..... 14  
 vacancies and absence in office of..... 17, 18, 23  
     forms for filling.....30, 31  
 violating election law, penalty..... 22

**Poll lists:**

challenges, to be marked on..... 122  
 clerk to have, at opening of polls..... 116  
 comparison of, at close of polls..... 122, 136  
 delivery of, by clerks at close of elections..... 145  
 entries on..... 122

**Poll lists — Continued.**

	PAGE.
filed and preserved.....	145
form of.....	151
memorandum as to disabled voters on .....	122
mutilation, removal or destruction of.....	106

**Polling places:**

arrangement of.....	25
ballot boxes for.....	24
ballots, number of, for.....	99
challengers at .....	118
compensation for use of.....	26
designation of rooms for.....	11
publication of.....	12
electioneering at, prohibited.....	118, 119
furniture for.....	12
preservation of .....	12
guard rail at....	25
liquors not to be sold at or near.....	11, 13
local laws designating .....	13
one only in single room.....	12
persons to be admitted in .....	118
supplies for.....	92
county clerk to provide.....	100
voting booths at.....	25
injury of. ....	26
watchers to attend.....	118

See, also, "POLLS."

**Polls:**

attendance at, furnishing money or entertainment to induce .....	109
closing of, time of.....	3
opening of, time of .....	3, 116
proclamation for opening.....	117
form for .....	149

See, also, "POLLING PLACES."

**Poundmasters:**

election of .....	307
-------------------	-----

**Presidential electors:**

See "ELECTORS OF PRESIDENT AND VICE-PRESIDENT."

**Primary elections:**

additional requirements at.....	58
canvass of votes at .....	60
chairman of, duties of .....	59
conduct of .....	58
definitions of .....	56
illegal voting at .....	56
misdemeanor at. ....	56
nomination of candidates at....	60
forms of certificates of .....	76, 80
notice of .....	57

**Primary elections — Continued.**

	PAGE.
opening of .....	57
organization of .....	57
presiding officers of .....	57
qualification of voters at .....	59
results of, filing .....	58
watchers at. ....	60

**Proclamation :**

of special election.....	4
of result of canvass.....	144
opening of polls .....	117

**Public officers :**

corrupt use of position or authority by.....	278
neglect of duty by, penalty for .....	107
oaths of.....	211
failure to file.....	214
qualifications of, general .....	198
resignations of.....	214
removal of .....	215, 216
term, commencement of .....	210
holding over .....	210
undertakings.....	212
failure to file, etc.....	214
vacancies .....	4, 5, 218
filling, terms of those .....	210

**R.****Race:**

not to affect right to vote.....	268
----------------------------------	-----

**Reformatory :**

persons sent to, not disfranchised.....	271
---	-----

**Registration of electors :****Challenge to applicant for registry :**

entry of name on registry.....	46
examination of applicant .....	46
general oath .....	46
name not to be placed on list upon refusal.....	46
name to be added on statement and oath .....	46
oath to be administered .....	46
preliminary oath .....	46
questions under .....	46
form for .....	54

**Register of voters :**

accessible to public .....	49
addition and cancellation of names on.....	36
additional names, arrangement for .....	49
certificates to.....	48, 49
as to number of electors .....	51

**Registration of electors—Continued.**

	PAGE.
Register of voters :	
as to number of electors, form for.....	55
challenges, registry of, in.....	46
changes in, certificates to .....	50
copies of previous, for new districts.....	52
filing of.....	49, 50
right to make.....	49
to be retained by inspectors.....	50
correction of, meetings for.....	35, 37
custody of .....	49
delivery of previous, to inspectors .....	52
examination of....	49
form of .....	38
instructions for preparing .....	40
list of electors, made daily .....	39
furnishing of.....	52
publication and distribution of .....	39, 40
mutilation, etc., of, penalty, for.....	40, 50
public copy of.....	49
remarks to be placed on.....	39
statement filed by certain persons to be noted on.....	44
Registration, etc. :	
certificate of, for elector.....	42
city registration, meetings for.....	35
personal appearance required.....	41
day for, not holiday.....	45
disabled voters, assistance for .....	45
elections other than general, registry for.....	42, 43
elector registering in two districts.....	43
penalty for.....	43
false registration, penalty for.....	45
illiterate voters, assistance for .....	45
meetings for. ....	35
duration of.....	35
naturalization papers, fraudulent, penalty for presenting.....	47
penalty for procuring.....	48
production of.....	47
oath, false, penalty for.....	47
personal appearance in cities and certain villages.....	41
registry as a condition of voting.....	125
registry books, copies of previous, for new districts.....	52
delivery of previous, to inspectors.....	52
delivery of, to election officers .....	51
registry officers, misconduct of, penalty for.....	36
removal, certificate of.....	43
required by constitution .....	36
right to register .....	44



**Registration of electors — Continued.**

Register of voters :	PAGE
rooms for registry of voters.....	11
designation of.....	11
list of, to be published.....	12
town elections, not required at.....	44
town registration.....	35
meetings for.....	35
placing of names on list.....	41, 42
special election in cities and certain villages, registry for.....	36
statement to be filed by certain voters.....	44
village elections, not required at.....	44
voters, qualifications of, for registration.....	44
<b>Removal :</b>	
of officers in certain cases.....	215, 216, 217
<b>Representative in congress :</b>	
districts for election of.....	256
election of.....	174, 202
qualifications.....	199
vacancies.....	202
<b>Residence :</b>	
duration of, for voting purposes.....	268
what deemed to be.....	271
<b>Resignations :</b>	
public officers.....	214
<b>Restoration :</b>	
pardon and... ..	270
<b>Right of suffrage :</b>	
Electors, when excluded from .....	270

**S.****Sample ballots :**

See "BALLOTS."

**School commissioner:**

election of.....	209
term of.....	209

**School commissioner districts:**

list of.....	259
--------------	-----

**School elections :**

challenges .....	327
district meetings .....	325
annual.....	325
when not held .....	325
duty of inhabitants, call for .....	326
proceedings, when illegal.....	325
powers of.....	327
election of officers.....	331
in districts over three hundred .....	331

**School elections—Continued.**

	PAGE.
illegal voting at.....	327
new districts.....	324
first meeting, notice of .....	324
refusal to serve notice, penalty for.....	324
special district meetings.....	325
call for, by commissioner.....	324
union free school districts.....	334
annual and special meetings.....	339
powers of.....	336
districts over three hundred .....	339
election of board and clerk in.....	339
levy of tax .....	334
qualifications of voters .....	334
tax for teachers' wages .....	338
voters, qualifications .....	326
<b>School officers:</b>	
official ballots for .....	86
<b>Secretary of state:</b>	
certificates of elections, to transmit.....	172
of nominations, filed with.....	67
concurrent resolutions, publication of, by.....	7
constitution amendments and other propositions, duty as to ...	7
county officers elected, record in office of.....	173
election of .....	200
election laws, distribution of, by.....	28
emblem, selection of, by.....	63
nominations, certificates of, by.....	68
certificates of, filed with.....	67
vacancies in, duty as to.....	73
notice of election by.....	6
registry book, preparation of, by.....	51
resignation of.....	214
removal of.....	216
state canvass, duty as to.....	171, 172, 173
term of.....	200
vacancy in office of.....	219
<b>Senate districts:</b>	
division of state into.....	226
<b>Senators, State:</b>	
election of.....	202
number of.....	202
qualifications for.....	198
	See, also, "LEGISLATURE."
<b>Sessions:</b>	
justices of, abolished.....	203
<b>Sheriff:</b>	
election of.....	204
term of.....	204
undertaking of.....	204

**Special elections:**

See "Election."

**State board of canvassers:**

adjournment of.....	271
canvassers by.....	269, 271
mandamus to compel correction of errors by.....	267
meeting of.....	271
organization of.....	271
reconvening of, court may compel.....	266

**State engineer:**

election of.....	228
resignation of.....	221
removal of.....	226
term of.....	228
vacancy.....	229

**State officers:**

provisions relating to.....	16
-----------------------------	----

**State treasurer:**

election of.....	228
resignation of.....	221
removal of.....	226
term of.....	228
vacancy, how filled.....	229

**Superintendent of poor:**

election of.....	227
oath of.....	221
resignation of.....	221
term of.....	227
undertaking of.....	221

**Supervisors:**

election of.....	226
eligibility for.....	223
oath of.....	223
resignations.....	221
term of.....	227
undertakings.....	221
vacancies.....	221

**Supreme court:**

judicial districts.....	222
justices' certificate of age, to file.....	201
election of.....	201
term of.....	201
to hold no other office.....	202
vacancies in office.....	201

**Surrogate:**

election of.....	203
special.....	203

**Interrogate — Continued**

	PAGE.
term of.....	203
vacancies in office of.....	6

**T.****Tally sheets:**

to be furnished election officers.....	92
form of.....	93

**Town board:**

appointment of inspectors to fill vacancies, by.....	19, 21
appointment of inspectors by, form for.....	29
polling places, designation of by.....	11

**Town clerk:**

ballots delivery of, to.....	101
delivery of, to, failure of, penalty for.....	102
distribution of, by, on election days.....	102
preparation and furnishing of, by.....	100
receipts for.....	102
form for.....	114, 115
clerk of town meeting.....	305
compensation of, for election services.....	27
election and term of.....	296, 297
list of candidates, posting of, by.....	70, 71
form of.....	82
sent to.....	70
nominations filed with.....	67
record of nominations by.....	68
substitutes for official ballots, may provide.....	103

**Town meetings:**

annual, changing place of.....	296
powers of.....	302
time and place of.....	295
automatic ballot cabinets, use of, at.....	196
ballots for full term and vacancies.....	301
balloting at.....	307
bi-partisanship in election boards, not required at.....	14
business in separate election districts, transaction of.....	310
business not requiring ballot, transaction of.....	305
canvass of votes.....	308
challenges at.....	305
clerk of.....	305
Davis' ballot cabinet, use of, at.....	190
duration of.....	305
election districts, town meetings in.....	308
election of officers at.....	296
election supplies, etc., removal or mutilation of.....	106
expenses of.....	26
minutes of proceedings of.....	305

**Town meetings—Continued.**

	PAGE.
Myers' ballot cabinet, use of, at .....	179, 311
notices of .....	304
propositions to be determined by ballot at .....	306
poll lists at. ....	308
pounds, erection or discontinuance of, at. ....	307
poundmasters, election of, at .....	307
presiding officers of .....	304
absence of .....	304
proclamation of opening of poll.....	307
special town meetings .....	303
vote to expend over five hundred dollars .....	306

**Town officers:**

assessors .....	297
ballots for full terms and vacancies .....	301
commissioners of excise.....	297
of highway .....	297, 322
election of .....	296
eligibility of .....	319
fence viewers .....	302
inspectors of election.....	300
justices of peace.....	297, 301
certificates of election of.....	320
oath of office of.....	319
oaths, administering of, by .....	320
omissions of, report of.....	323
overseers of poor.....	298
undertaking of .....	322
overseer of highways, refusal to serve as .....	320
poundmaster, refusal to serve as .....	322
resignation of .....	322
term of office of .....	297
undertakings, collector's.....	319, 320
commissioners of excise .....	322
commissioners of highways .....	322
constables.....	320
execution of.....	323
form of .....	323
justices .....	321
liability on.....	323
overseer of poor.....	322
supervisor .....	321
vacancies in, filling of.....	323

**Towns:**

ballot machines, use of, in .....	179, 190, 196, 311
ballots for elections in .....	86
election districts in.....	224
election districts, new, copies of registry for .....	52
election expenses, a town charge.....	26

**Towns—Continued.**

	PAGE.
polling places in, designation of .....	11
registry of voters in .....	35
special elections in, registration for.....	36

**Treasurer, State:**

See "STATE TREASURER."

**U.****Undertakings:**

neglect to file .....	214
official, force and effect of.....	212, 213

**V.****Vacancies in office:**

ballot clerks .....	17, 18, 23
county judge.....	6
creation of .....	218
elective offices generally.....	4, 218, 221
filling of .....	3, 219
terms of those.....	210
general election, when filled at .....	3
governor to fill.....	5
inspectors of election.....	17, 22
judges of court of appeals.....	5, 219
justices of supreme court .....	5, 219
legislature to fill .....	4, 219
notice of existence of.....	5, 219
poll clerk .....	17, 18, 23
representatives in congress .....	202
special elections, when filled at.....	4
surrogate .....	6

**Village clerk:**

ballots for elections, to provide.....	100
distribution of, by.....	102
failure to deliver to, penalty for .....	102

**Village elections:**

automatic ballot cabinets for .....	196
ballots for.....	86, 100, 102
bi-partisanship in election boards, not required at.....	14
expenses, a village charge .....	26

**Vote:**

persons convicted of bribery cannot.....	270
persons convicted excluded from right to vote.....	270
persons convicted of felony cannot.....	270
persons entitled to, may be ascertained ...	283
promises for giving or withholding.....	270
rejection of, at election.....	134
residence required.....	271
right to, not to be denied.....	268
who entitled to.....	268

**Voters:**

See "ELECTORS."

**Voting:**

	PAGE.
commenced, when.....	131
misemeanors relating to.....	107

**Voting booths:**

arrangement of.....	25
construction, manner of.....	25
expense of providing.....	26
guard rail, how placed with reference to ....	25
injury to, penalty for.....	26
lighting of.....	25
number of ..	25
occupation of, limited..	128
officers to provide.....	12
preservation of.....	12
supplies for.....	12, 25

**W.****Watchers at primaries:**

relative to.....	60
------------------	----

**Watchers at poll:**

ballot boxes, examination of, by, at opening of polls.....	117
certificate of appointment, form for.....	149
political parties may appoint.....	118
may be present within guard rail....	119
misconduct of .....	107
revealing names voted, penalty for.....	107

H2 7









1. The first part of the document is a list of names and addresses of the members of the committee.



